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THE LAW AND PRACTICE

OF

HERALDRY IN SCOTLAND.

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THE LAW AND PRACTICE

OF

HERALDRY IN SCOTLAND

BY

GEORGE SETON, ADVOCATE

M.A. OXON. F.S.A. SCOT. ETC.

"Well ratified by law and heraldry."

HAMLET, *Act* I.

EDINBURGH

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'THE MOST POPULAR PATRICIAN OF MODERN TIMES,'

THIS VOLUME

IS REVERENTLY DEDICATED.

PREFACE.

The author has long been of opinion that the alleged "contempt of scutcheons" is not so universal as is usually represented, and that, even where the sentiment is expressed, it is frequently not very genuine. Many sounder hearts than Voltaire's, and many wiser heads than Lord Chesterfield's have reverenced, instead of ridiculing, the armorial traditions of Europe; and in these days of crumbling Republics, the favourite theories of the Utilitarians are passing into wholesome obscurity. What is the use of it? or, what is it worth? are questions which are not so universally asked as formerly; and the principles of those heartless, short-sighted philosophers who would estimate everything under the sun according to its money value, seem to be gradually falling into disrepute. Under these hopeful circumstances, and notwithstanding Professor Innes' friendly "*Requiescat*," the author has made a humble attempt to rescue the "Noble Science" from the "tender mercies of the lapidary and the coach-painter," at whose unsparing hands it has certainly met with many painful indignities.

A considerable portion of this volume was written, without a view to publication, several years ago, when its completion was unavoidably abandoned; but the author was induced to resume his labours, and in consequence of the unexpected encouragement which he received, his manuscript has at length assumed its present shape. Various circumstances, over which he had no control, have retarded the appearance of the work, the preparation of which was more than once suspended for several months together; and he may state, moreover, that he has gone much more fully into certain branches of the subject than was originally contemplated. On the whole, he has adhered pretty closely to the arrangement proposed in his prospectus. While he has thought it expedient to omit an intended chapter relative to armorial bearings as a source of revenue, he has introduced a pretty detailed account of Scottish Heraldry as illustrated by Seals, besides a chapter on the Royal Arms in Scotland, and other minor additions. He has also devoted a considerable amount of space to the subject of change of Surname, which has recently excited a good deal of public interest. Besides a comprehensive list of Contents, he has prepared a copious Index, which he ventures to hope will prove serviceable.

In the selection of his examples, the author has always endeavoured to introduce the most apposite illustrations; and if it should be considered that too much prominence has been given to certain surnames, he has merely to remark that, independently of his greater familiarity with the relative bearings, it so happens that the pages

of both Mackenzie and Nisbet abound with references to the Heraldry of the Houses in question.

He trusts that it is quite unnecessary for him to disclaim any intention to cause offence in his strictures on what he considers to be heraldic irregularities; for most of which, indeed, the Authorities of the Lyon Office are responsible, and not the families by whom these irregularities are exhibited. In his anxiety to avoid such a result, he at one time entertained the idea of resorting to what lawyers call the "A. B." system of illustration; but he soon found that a hypothetical mode of treatment was not calculated to explain his views with sufficient clearness, and that the actual mention of names was desirable, if not absolutely necessary.

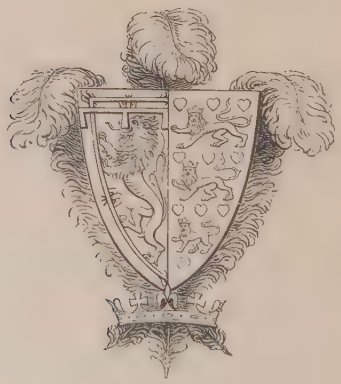
With reference to the Dedication, the author thinks it right to state that, in accordance with the permission of the lamented Lord Eglinton, he hoped to have published the work under his Lordship's living patronage, but—*dis aliter visum.*

He embraces this opportunity of acknowledging the valuable assistance he has received during the progress of the work, more particularly from Lord Lindsay, Mr. David Laing, Mr. William Fraser of the Register House, and Mr. William Anderson of the Lyon Office. He also begs to express his great obligations to Mr. James Drummond, R.S.A., and Mr. Robert Frier, for their ready and skilful aid in the preparation of several of the illustrations.

The author may state that his mode of treatment implies a knowledge of at least the elements of Heraldry;

and while he has endeavoured to show that the "Science" of Blazon is by no means devoid of interest, his chief aim has been to make the subject both instructive and popular, without giving undue prominence to those drier and less acceptable details which a treatise on the *Law* of Heraldry must necessarily embrace.

St. Bennet's, Greenhill,
Edinburgh, 10*th March* 1863.



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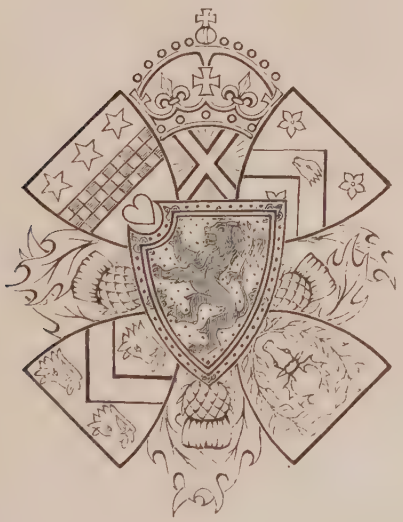

THE LAW AND PRACTICE OF HERALDRY IN SCOTLAND.

CHAPTER I.—INTRODUCTORY.

Besides embracing the regulation of all that relates to the use of Armorial Insignia, the "Science" of Heraldry describes the various duties of the officers appointed to decide questions of Precedency, and to superintend the solemnities at Coronations, the creation of Peers and other public ceremonies. Our present inquiries, however, will be entirely directed to the consideration of the former branch of the subject, viz., the bearing of Coat-armour, to which the term "Heraldry" is now commonly, although not very accurately, confined.

Armorial Bearings are defined by Sir George Mackenzie to be "Marks of hereditary honour, given or authorized by some supreme Power, to gratify the Bearer or distinguish Families;"[1] and the same learned writer, under no fewer than twenty heads, sets forth the reasons for which they are conferred, and the advantages which are derived from a knowledge of Heraldry. A somewhat similar definition is given by Nisbet, who describes

[1] *Science of Heraldry*, chap. i.

them as "hereditary marks of honour, regularly composed of certain tinctures and figures, granted or authorized by Sovereigns, for distinguishing, differencing, and illustrating persons, families, and communities."[1] Unlike emblems and other similar devices, heraldic ensigns are "regularly composed of certain tinctures and figures," and are distinguished from all arbitrary marks and symbols by being "granted or authorized" by the Sovereign. They received the name of Armories or "Coats of Arms," from their immediate relation to warfare, and from the circumstance of their being displayed, not only on the shield, the helmet, and the saddle-cloth, but also on the Coat, or tunic, which was worn over the armour. The resemblance between the use of Armorial Bearings as hereditary marks of honour, and the *jus imaginum* of the Romans, has been repeatedly noticed. "As in ancient times, the statues or images of their ancestors were proofs of their nobility, so, of latter times, Coat-arms came in lieu of those statues or images, and are the most certain proofs and evidences of nobility. Hence it followeth that *jus nobilitatis* is nothing else but *jus imaginis*; insomuch that the word *imago* doth oftentimes signify nobility; and the right of having images of their ancestors was the same as the right of having arms now with us."[2]

A vast amount of laborious research has been expended in endeavouring to ascertain the *origin* of Armorial Bearings, which have been variously derived from the

[1] *System of Heraldry*, vol. i. p. 9.
[2] Brydal's *Jus Imaginis apud Anglos*, p. 53.

twelve tribes of Israel, the siege of Troy,[1] the conquests of Alexander, the introduction of the Feudal system, the feats of Tilt and Tournament, and the Crusades or Holy Wars. In the earliest ages of the world, it was the practice of warriors to exhibit emblems and badges on their shields and banners, but these were mere personal distinctions assumed and abandoned at pleasure; and it now seems to be pretty generally admitted that, although the Crusades unquestionably exercised a very important influence on its gradual development, the first appearance of the Science of Armory, in the accepted sense of the term, cannot be assigned to a more remote date than the middle of the twelfth or the beginning of the thirteenth century. To the same period we may also refer the general adoption of hereditary surnames, which, along with regular heraldic insignia, have ever since continued to distinguish families from one another.

The term "blazon" is usually derived from the German word *blasen*, to blow a horn, in allusion to the custom of the ancient heralds sounding their trumpets before declaring the bearings of the Knights who presented themselves at the Lists. While the original introduction of Heraldry may probably be traced to Germany, the credit of having reduced it to a Science is unquestionably due to France, and a large number of the heraldic terms used by all the nations of Europe are borrowed from the language of that country.

In a recent Work on the subject of Armorial Bearings,[2]

[1] See Boswell's *Life of Johnson*, Croker's edition, chap. xxvii.

[2] *The Pursuivant of Arms*, by J. R. Planché, F.S.A.

the learned author, guided solely by *facts*, endeavours to establish the four following propositions, and most of his conclusions appear to be substantially correct:—"*Firstly*, that Heraldry appears as a Science at the commencement of the thirteenth century, and that although Armorial Bearings had then been in existence, undoubtedly for some time previous, no precise date has yet been discovered for their first assumption. *Secondly*, that in their assumption the object of the assumers was not, as has been so generally asserted and believed, to record any achievement or to symbolize any virtue or qualification, but simply to distinguish their persons and properties; to display their pretensions to certain honours or estates; attest their alliances, or acknowledge their feudal tenures.[1] *Thirdly*, that wherever it has been possible to sift the evidence thoroughly, it has appeared that the popular traditions of the origin of certain singular Coats of Arms have been the invention of a later period; stories fabricated to account for the bearings, and sometimes flatter the descendants of the family, by attributing to their ancestors the most improbable adventures or achievements. *Fourthly*, that the real value

[1] This appears to be the most questionable of Mr. Planché's four propositions. It cannot be doubted that ancient Heraldry was frequently symbolical, and even in the present day this characteristic of the Science is not altogether obsolete.

In his *Plea for the Antiquity of Heraldry* (24 pp. 8vo. 1853), Mr. Smith Ellis, of the Middle Temple, condemns the "rigid scepticism" of modern writers on Heraldry, and appears to prefer the "implicit credulity and extravagant hypotheses" of the earlier authors. We incline to think, however, that, notwithstanding his ingenious speculations and learned notes, the use of *hereditary* arms, at least in this country, cannot be traced to an earlier period than that which is specified in the text.

of the study of Heraldry has but recently become apparent, and that, however some may regret the demolition of old and familiar legends, the importance of eliciting genealogical facts must be admitted by all, and the new interest thus imparted to the Science elevate it in the eyes of many who have hitherto looked upon it with indifference, if not with contempt."

Perhaps no stronger example could be adduced of the remarkable tenacity of associations than the continued use of Armorial Ensigns, notwithstanding the alleged "enlightenment" of the age in which we live, and the reforming mania of the Utilitarians, which threatens the indiscriminate extermination of all established customs. If the days of Chivalry have departed, the noble Science of Heraldry, which formed one of their most appropriate characteristics, far from ceasing to exist, still retains no inconsiderable hold on the sympathies of our countrymen. In spite of its *apparent* uselessness and the alarming technicalities of its language; and although quite unintelligible, not only to the great mass of the community, but even to many of those who emblazon its multifarious devices on almost every chattel which they possess, the bearing of these very devices is universally regarded as the essential mark of gentility. Doubtless a certain section of the public—who complacently regard themselves as the oracles of the age and the advanced guard of social progress—endeavour to persuade their fellows that everything in the shape of rank or distinction is both obsolete and worthless. But their preaching is unheeded, or, at least, practically dis-

believed; and ordinary mortals still seem to think otherwise, thus exhibiting a wholesome dread of that "creature of civilisation" commonly called "Cant," which appears to take great delight in *pretending* to despise all kinds of honours. Probably the worst of the many phases of pride is that which "apes humility,"—affecting a contempt for the rank to which it has not been born, and which is certainly quite as indefensible as the folly that worships rank for its own sake. Such a pitiable weakness formed an element in the character of the lamented Sir Robert Peel, as well as (somewhat less remarkably) in that of the shrewd and practical Stephenson, by the former of whom it is well known that titles of honour were ostentatiously rejected.

The increasing interest in the study of Heraldry may be fairly inferred from the large number of able treatises, devoted to its elucidation, which have lately appeared,[1] and by-and-bye, most assuredly, the ignorance of a Frank Osbaldistone will merit, more than ever, the rebuke of

[1] Of recent treatises we may mention the following, which have all been published since the year 1840:—Montagu's Guide to the Study of Heraldry—Moule's Heraldry of Fish—Barrington's Lectures on Heraldry—Evans' Grammar of British Heraldry—Newton's Display of Heraldry—Lower's Curiosities of Heraldry—The Oxford Glossary of Heraldry—Planché's Pursuivant of Arms—and Millington's Heraldry in History, Poetry, and Romance. Nor ought we to pass over in silence Clark's useful Introduction to Heraldry (originally published in 1775), of which the 16th edition appeared about three years ago. For works of an earlier date, reference may be made to Moule's Bibliotheca Heraldica—published in 1822—a valuable analytical catalogue of Books on Genealogy, Heraldry, and kindred subjects.

The only works on the subject of *Scottish* Heraldry are those of Sir George Mackenzie of Rosehaugh (the founder of the Advocates' Library), and Alexander Nisbet, of the family of Nisbet of that Ilk:—

I. *By Mackenzie.* (1.) The Science of Heraldry, treated as a part of the

his sprightly kinswoman :—"Not know the figures of heraldry, of what could your father be thinking?"[1] Without pausing to inquire into the causes which contribute to the permanency of Armorial Bearings and to the general estimation in which they have always been held, it is sufficient to describe them as the "Shorthand of History," the pictorial chronicle of days gone by, the evidence of gentle blood, the record of important alliances, the symbolical title to patrimonial rights, and, not unfrequently, the unerring guide in cases of disputed succession. The utility of the Science of Heraldry to the historian and the architect has been repeatedly acknowledged, and it is hardly necessary to mention the various ways in which Armorial Ensigns have proved of material

Civil Law, and Law of Nations—98 pp. folio—usually bound with (2.) Observations upon the Laws and Customs of Nations as to Precedency—92 pp. folio—both published at Edinburgh in 1680. These two treatises are embraced in the second volume of Sir George Mackenzie's Miscellaneous Works, 2 vols. folio, Edinburgh, 1722.

II. *By Nisbet.* (1.) An Essay on Additional Figures and Marks of Cadency—276 pp. 12mo, Edinburgh, 1702. (2.) An Essay on the Ancient and Modern Use of Armories—224 pp. 4to, Edinburgh, 1718. (3.) A System of Heraldry, Speculative and Practical—151 pp. folio, Edinburgh, 1722. The author died three years afterwards. A *second* volume was printed at Edinburgh, by Robert Fleming, in 1742. Both volumes were reprinted in 1804, and published in London, with new *titles* only, in 1817. A new and improved edition of this useful work would prove of great service.

The best *Foreign* Works on the subject of Heraldry are :—

1. (*French.*) Claude Menestrier's "Véritable Art du Blazon," published at Lyons in 1671.

2. (*German.*) Philip Jacob Spener's "Insignium Theoria seu Operis Heraldici."

3. (*Spanish.*) Gerhardus Frankenau's "Bibliotheca-Hispanica Historico Genealogico-Heraldica."

Several Italian, Dutch, and Swedish writers on Heraldry are also worthy of consultation. In the words of Chevalier de Courcelles, "Il n'y a peut-être pas de science en apparence plus frivole, et sur laquelle on ait tant et si gravement écrit, que celle du Blazon."

[1] *Rob Roy*, vol. i. chap. x.

service to the lawyer in matters of Genealogy. Not only the Seals of Charters, Testaments, and other documents, but even the blazonings which occur on Churches, Castles, Monuments, Banners, Pictures, and Plate, have often thrown important light upon doubtful questions of Marriage and descent. "Welsh families," says Grimaldi, "are more known by their arms than by their names; and even in English families, many persons of the same name can only now be classed with their proper families, by an inspection of the Arms on their seals, shields, and the like."[1] The same author adduces the following proofs of the genealogical utility of Armorial Bearings:—

"I know three families," says Bigland, "who have acquired estates by virtue of preserving the arms and escutcheons of their ancestors."[2]

"The Antiquity of a Church window for the proof of a match and issue hath been delivered to a jury at an assize, and been accepted."[3]

In the Harleian MSS. (1386) is "the argument of the Officers of Arms against Sir Michael Blount, who endeavoured to prove himself heyre-male of the bodye of Sir Walter, first Lord Mountjoy, from a glasse windowe," set up at Ives, in Buckinghamshire, in the reign of Henry VII.

Amongst the evidence of the Earl of Huntingdon, received by the Attorney-General in 1818, in support of his claim to the Peerage of Huntingdon, there was pro-

[1] *Origines Genealogicæ*, p. 82.

[2] *Observations on Parochial Registers*, 1767.

[3] Burton's *History of Leicestershire*.

duced a very old armorial shield, emblazoned with the bearings of Hastings Earl of Huntingdon, quartered with those of Stanley, as evidence of the marriage of Henry, 5th Earl of Huntingdon, to the daughter of Ferdinando, Earl of Derby.[1]

In Scotland, as in Wales, where surnames are comparatively few in number, Armorial Bearings afford no inconsiderable assistance in authenticating Genealogies and in distinguishing the various branches of a widely extended Clan. Unaided by the characteristic symbols of the Herald, and in the absence of an estate to serve as a designation, who, for example, could ever comprehend the endless ramifications of the families of Douglas, Campbell, or Scott?

In his recent work on the early history of Scotland, after referring to the great importance of some knowledge of Heraldry to the student of historical antiquities, Professor Innes observes, that "for the pursuit of family history—of topographical and territorial learning—of ecclesiology—of architecture—it is altogether indispensable; and its total and contemptuous neglect in this country is *one* of the causes why a Scotchman can rarely speak or write on any of these subjects, without being

[1] *Huntingdon Peerage*, p. 359. Most of these cases, as well as others of more recent date, are referred to in Hubback's *Evidence of Succession*, pp. 694-6. See also Montagu's *Guide to the Study of Heraldry*, p. 35.

A melancholy instance of the use of Armorial Bearings for the purpose of identification is mentioned in M'Clintock's interesting narrative of his voyage to the Arctic Seas. Several silver spoons and forks exhibiting the Crests of some of the officers of the lamented Franklin's Expedition were among the articles found by the crew of the "Fox," and afterwards transmitted, as precious relics, to the surviving relatives in England.

exposed to the charge of using a language he does not understand."[1]

A still higher and more philosophical branch of heraldic inquiry is adverted to by Lord Lindsay in one of his Letters on the sculpture of the Lombards. In noticing the emblematical character of Griffins, Lions, and other monsters, as they appear in the porches of Churches and on the roofs of Cathedrals, he alludes to their ultimate adoption by the Italian States as *Crests*, and also to their retention, to the present day, as the *Supporters* of royal and noble escutcheons, all over Europe. "Heraldry," he continues, "is in fact the last remnant of the ancient symbolism, and a legitimate branch of Christian art; the Griffins and Unicorns, fesses and chevrons, the very tinctures or colours, are all symbolical—each has its mystic meaning, singly and in combination; and thus every genuine old Coat-of-arms preaches a lesson of chivalric honour and Christian principle to those that inherit it,—truths little suspected now-a-days in our Heralds' offices."[2] Like the monsters of early legends, the Unicorn, Dragon, Phœnix, Allerion, and other chimerical figures of Heraldry, originally had a symbolical meaning. Thus, the *Unicorn* was regarded as the emblem of purity and virtue, and frequently occurs, in a symbolical sense, in the paintings of the Catacombs. The *Dragon* symbolized "that old serpent" the Devil, represented by Raphael as quelled by the mere touch of the Cross in the hands of St. Margaret, and transfixed by the irresistible spear of that "blyssed and holy martyr

[1] *Scotland in the Middle Ages*, p. 303. [2] *Sketches of Christian Art*, ii. 49.

Saynt George," the Patron of the realm of England. The *Phœnix*—a portion of Jane Seymour's badge, and also the Duke of Somerset's crest—was anciently a symbol of our Saviour's resurrection, as the *Pelican*, "in her piety," was an emblem of his death. *Lions*

and *Eagles*, both chimerical and natural, were frequently assumed as symbolical of magnanimity; the two-headed Eagle being in imitation of the Roman ensign, which, according to Menestrier, was borrowed from the East to denote the conjunct reign of two Emperors.[1] Although occasionally placed as charges in the shield, most of these allegorical figures, as already stated, are usually borne as crests and supporters; and they were, no doubt, adopted in the former capacity, by ancient

[1] The Arms used by the City of Perth (*alias* St. Johnstoun) since the Reformation, are said to bear reference to its Roman origin, viz.,—an eagle displayed with two heads *or*, surmounted on the breast with an escutcheon *gules* charged with the Holy Lamb, passant regardant, carrying the banner of St. Andrew, within a double tressure, flowered and counter-flowered, *argent*. The old City seal, which was laid aside after the Reformation as "superstitious," represented the decollation of St. John the Baptist, with the legend:—*S. Communitatis Ville Sancti Johannis Baptiste de Berth.*

warriors, for the purpose of inspiring the enemy with terror. According to an accomplished writer, "when an enemy was subdued or slain, who bore on his shield (or as his crest) a dragon, griffin, wolf, or bear, the narrative of the occurrence often stated that a dragon, wolf, or bear, had been killed; and one or other of these, or perhaps the head only, was sometimes exhibited on the shield of the conqueror, as a trophy of victory."[1] Nor was this mode of expression peculiar to romance. The French historians speak of Philip Augustus "conquering the Dragon," when he overcame Otho the Fourth, who bore a Dragon, as the standard of the Empire, at the battle of Bovines.

The arms of the City of Glasgow have by some been regarded as affording a curious example of symbolical Heraldry, being thus blazoned:—*Argent*, an oak-tree

growing out of a mount, and surmounted by a bird—a bell on the sinister side,[2] and in base a salmon with a ring

[1] Brydson's *View of Heraldry in reference to Chivalry and the Feudal System*, p. 97.

[2] In the illustration, which is copied from a photograph of a sculptured stone in Glasgow Cathedral (for which the author is indebted to Mr. James-Alexander Campbell), the bell is represented on the *dexter* side of the tree.

in its mouth,—all proper. In accordance with that opinion, the *Tree* is said to represent the Tree of Life; the *Bird*, the Holy Spirit; the *Bell*, the proclamation of the Gospel; the *Fish*, our blessed Saviour (of whom it was a favourite emblem in the early Christian Church); and the *Ring*, the marriage of the Church to Christ. In support of this religious interpretation, the ancient motto of the City has been brought forward—"Let Glasgow flourish *by the preaching of the Word*." In these degenerate days, the motto is abruptly terminated at the word "flourish." It would appear, however, that a more correct explanation of the bearings of the Western Metropolis is that which is usually given, viz., the commemoration of the well-known miracle attributed to St. Kentigern, the Patron Saint of Glasgow, with reference to the recovery, in the fish's mouth, of the lost ring of the frail Queen of Caidyow.[1] The tale of Polycrates, as related by Herodotus, centuries before the time of St. Kentigern, is probably the earliest version of the fish and the ring; and the same legend is also introduced into the Koran of Mahomet, with reference to Solomon and one of his concubines.

A limited acquaintance with the principles of Heraldry is of unquestionable advantage to that large section of the community who indulge in the perusal of poetry and romance. The most careless reader of the poets of the Middle Ages, or of the works of fiction of more modern

[1] This is the view adopted by Mr. Joseph Robertson in his Preface to the *Liber Collegii Nostre Domine*, etc., pp. xxiv. *et seq.* (Maitland Club, 1846.)

times, cannot fail to have been struck with the richness and variety of the heraldic allusions. Almost every page of Sir Walter Scott exhibits his genuine sympathy with the "noble science;" and of his intense anxiety to be strictly correct in its most minute details, we have abundant evidence in his published correspondence.[1] In the case of the author of *Waverley*, a taste for heraldic and genealogical investigations was the natural associate of a variety of kindred feelings, but several instances might be adduced of distinguished men, remarkable for the simplicity of their character and an entire exemption from vain ostentation, who manifested a great interest in the same pursuits. Such were David Hume, Benjamin Franklin, and Bishop Watson,[2] by all of whom a reverence for ancestry was felt and acknowledged. Leibnitz did not disdain to take an interest in genealogical inquiries, which also occupied the attention of Cecil and Fuller, and amused the leisure of Gray and Gibbon. Referring to the sentiment of birth, the historian of the Roman Empire remarks, that "our calmer judgment will rather tend to moderate than to suppress the pride of an ancient and worthy race. The satirist may laugh, the philosopher may preach; but Reason herself will respect the prejudices and habits which have been consecrated by the experience of mankind."[3] In speaking of Her-

[1] See Lockhart's *Life of Scott*, chapters xlv., lviii., and lx. (Letters to Mr. Richardson, Lord Montagu, and Mr. Constable); also Hannay's *Essays from the Quarterly Review*, p. 68.

[2] Richard Watson, elected Bishop of Llandaff in 1782—died 1816—whose grandson, Mr. Knight Watson, is the present accomplished Secretary of the English Society of Antiquaries.

[3] Gibbon's *Autobiography*. In the same work, the author makes the following curious allusion to his

aldry and Genealogy as his favourite study, the late Sir Andrew Agnew used to say, that "far from ministering to pride, as was sometimes thought, it rather tended to promote humility. It taught him that, while many were, as regarded rank, below him, many were also far above him; and the higher any one rose in family distinction, he argued that it must be the more humbling to think how far he came short of worthily filling his position in society."[1]

In former times, the accurate blazoning of Coats-of-arms was considered of so much importance, that Herald Painters were obliged to obtain formal license in order to pursue their avocation, and were liable to punishment if they ventured to practise without due authority. Owing to the rare knowledge of writing, charters and other documents were seldom subscribed by the granter, who generally appended his Seal of Arms as an admitted proof of his consent,—a custom which is believed to have greatly contributed to the regularity of Armorial Bearings. As early as the reign of David I. (1124-53), we find very distinct allusion to the subject of documentary Seals. In book iii. chap. 8 of the *Regiam Majestatem*, it is declared

armorial ensigns:—"My family arms are the same which are borne by the Gibbons of Kent, . . . a lion rampant gardant, between three scallop shells argent, on a field azure. . . . About the reign of James I., the three harmless scallop shells were changed by Edmund Gibbon, Esquire, into three Ogresses, or female Cannibals, with a design of stigmatizing three ladies, his kinswomen, who had provoked him by an unjust lawsuit. But this singular mode of revenge, for which he obtained the sanction of Sir William Seagar, King-at-arms, soon expired with its author; and on his own monument, in the Temple Church, the monsters vanish, and the three scallop shells resume their proper and hereditary place."

[1] M'Crie's *Life of Sir Andrew Agnew*, p. 23.

that a writ may be approved "be comparison of moe seales; or be other writtes sealed with the samine seale, quherof there is no suspition of falset, nor of diversitie of seales;" which failing, the controversy "may be decyded by singulare battell, because it is ane crime of falset." It was enacted, by certain Scottish statutes, that every Freeholder should have his proper seal of Arms, with which either he himself, or his attorney, was required to "compear" at the head Court of the shire, and all who failed to comply with these provisions were liable to punishment by fine.[1] Accordingly, it became the common practice for gentlemen to send their seals in lead to the clerk of Court, who kept them in his office for production or comparison when occasion required; and to counterfeit another man's seal was reckoned no less a crime than forgery. "Anciently," says Nisbet, "our notaries were obliged, in transumpts of rights, to describe or blazon the seal, because it was the seal only that verified the deeds or evidents, which then were not subscribed by the granters. I have met (he adds) with several such descriptions of blazons by our notaries in transumpts, some of them awkwardly, and some handsomely done."[2] By

[1] Feb. 21, 1400 (Rob. III.), and 1430, 9 Parl., c. 21 (Jac. I.)

The former of these statutes provides, "quod sigilla sint et non signeta sicut ante ista tempora fieri consuevit." In the time of Edward II. (1307-27), seals became so very common in England, that they were used not only by those who bore Arms, but others fashioned *signets*, on which initials, birds, flowers, etc., were engraved. (See Sim's *Manual for the Genealogist*, etc., 1856.)

[2] *System of Heraldry*, i. 101. As an example of a confused description, he gives the following, relative to the seal of John Lord Halyburton in 1447:—"Literam assedationis stipatam sigillo nobilis Domini Johannis de Halyburton, in quo sigillo sculptum fuit unum scutum, in dicto scuto bend lossyne et trias faces; et in in-

1540, c. 117 (folio edition, c. 37), it was "statute and ordained, that because mennis seales may of adventure be tint (lost), quhair-throw great hurt may be genered to them that awe the samin: And that mennis seales may be fenzied or put to writinges after their decease, in hurt and prejudice of our Soverain Lord's lieges: That therefore na faith be given, in time cumming, to ony obligation, band, or uther writing under ane seale, without the subscription of him that awe the samin, and witnesse: or else gif the partie cannot write, with the subscription of ane Notar thereto."[1] The sealing of deeds, however, still continued necessary, and was expressly required as a solemnity by 1579, c. 80 (folio edition, c. 18). In 1584, it was dispensed with in the case of deeds containing a clause of registration, and shortly afterwards the practice was altogether laid aside.[2]

feriore parte dicti sigilli unum simplex bend, et unum bend lossyne."

[1] See also 1525, c. 3. These are the earliest Scottish statutes relating to the subscription of deeds, which is now regulated by 1681, c. 5 (Car. II).

[2] See Erskine's *Institute of the Law of Scotland*, Book iii. Tit. 2. § 7.

The continued use of Seals in the execution of English deeds forms a well-known contrast to our own modern system, and appears to harmonize with the views of Sir George Mackenzie, who quaintly observes, in the first chapter of his *Science of Heraldry*, that "it would be a further check upon forgers of papers that the granter's seal were to be appended; for many can forge a subscription who cannot forge a seal, so that each forger behoved to associate at least another with himself, which would discourage them before the cheat, or help to discover the forgers after the cheat was perpetrated." The ordinary use of the word *Signature*, in reference to subscription, is rather a curious instance of a misapplication of terms. Doubtless a writer's subscription constitutes his *Signum* or mark, but it is equally certain that, in its original and accurate acceptation, the word signature had reference to a *Seal*. An interesting allusion to the joint practice of subscription and sealing occurs in the last verse of the 32d chapter of Jeremiah

The preceding observations are entirely confined to the Armorial ensigns of the past, handed down from generation to generation, of which the descendants of the original bearers may feel justly proud, and to whom, not unfrequently, the ancestral shield and surname alone remain, long after the ancient stronghold has been levelled with the dust, and many a broad acre become the inheritance of strangers. And surely there is nothing either absurd or irrational in the usual desire of those who, in modern times, have become possessed of wealth and influence, by means of honest labour, to distinguish themselves and their families, by the adoption of peculiar "charges," from those who bear a common surname. "Several of the most powerful families of our titled aristocracy, and some even of the oldest, inherit their wealth and consequence from a clothier, a goldsmith, or a merchant of a former age, who felt as much pride in bequeathing to them the armorial bearings he had obtained from the Heralds' College, as the property accumulated by his prudence and industry. It is the peculiar boast of this Country that, almost from the foundation of the Monarchy, the ranks of her aristocracy have been thus gradually fed, and their numbers kept up, by addition of the eminent and enterprising from the general mass; so that no one has ever been so lowly in birth or station that he might not aspire, by the exercise of his talents and energies, to become the founder of a family which should eventually take rank with the direct

(B.C. 590):—"Men shall buy fields for money, and subscribe evidences, and seal them, and take witnesses in the land of Benjamin."

descendants of the Knights of Battle-Abbey, or the Barons of Runnymede."[1]

It is not here intended, however, to defend the noble Science of Heraldry—which constitutes a portion of the history of Civilisation—from the sneers of the ignorant or from the harmless contempt of those unenviable individuals who, shutting their eyes upon the influences of the past as well as on the issues of the future, endeavour to bound their contemplations by the age in which they live. It would, moreover, be quite superfluous, as this has already been done by various learned writers. Proceeding on the simple fact that the estimation of Heraldic ensigns still continues as of old, and that, in Scotland at least, the Bearing of Coats Armorial is a matter of undoubted legal right, our main object is to endeavour to set forth the rules and principles which regulate their use and assumption.

A few short extracts from the works of acknowledged Authorities may here be introduced, in confirmation of the assertion that the use of Armorial Bearings is a matter of legal right.

"Real injuries," says Sir George Mackenzie, "are committed by hindering a man to use what is his own, by removing his seat out of its place in the Church, . . . by arresting his goods unjustly, *by wearing in contempt what belongs to another man as a mark of Honour*, by razing shamefully a man's hair or beard, by offering to

[1] *Quarterly Review*, vol. lvi. p. 2. See also some very sensible observations on the vitality of Heraldry and its adaptation to the present times in the *Gentleman's Magazine* for 1851, vol. xxxvi. (new ser.) pp. 295 and 515.

strike him in public, or by striking him, or riving or abusing his clothes, or his house, and many other ways."[1]

In the second chapter of his *Science of Heraldry, treated as a part of the Civil Law and Law of Nations,* the same Author remarks, that "by the civil law, he who bears and uses another man's Arms to his prejudice, *vel in ejus scandalum et ignominiam,* is to be punished arbitrarily at the discretion of the Judge; but he who usurps his Prince's Arms loses his head, and his goods are confiscated."[2]

Again, in the words of Erskine, "Real injuries are committed by doing whatever may either hurt one's person, as giving him a blow; or may affect his honour or dignity, as the bare aiming of a blow without striking; *assuming a Coat of Arms or any mark of distinction* PROPER TO ANOTHER, spitting in his face," etc.; and "this offence," he adds, "is punished arbitrarily by the Judge Ordinary, according to the circumstances attending it, either by fine or imprisonment."[3] In like manner, to quote the language of an English writer, "between Armes and Names is a certain conformity; so that it is a thing unlawful for a man (but upon great occasion) to change his Armes or his Name.[4] . . . But further, there is between these Armes and their Bearers a kind of sympathy, or natural participation of qualities, insomuch as whoso dishonourably or unreverently useth the Armes of

[1] *Laws and Customs of Scotland in matters Criminal,* Part i. Tit. 30. § 3.

[2] In like manner, in his well-known *Accedens of Armory,* Gerard Legh informs us that "the law of arms is for the most part directed and regulated by the Civil Law."

[3] *Institute of the Law of Scotland,* Book iv. Tit. 4. § 81.

[4] See, however, chap. ix., *infra.*

any man, seemeth to have offered indignity to the person of their Bearer, so as (according to some authors) their owner shall right himself against such an offender, *actione injuriarum.*"[1]

In the case of M'Donnell *v.* Macdonald, in the year 1826, Lord (William) Robertson remarks that "the Lord Lyon's power to grant new Armorial Bearings is merely discretionary and ministerial, and with that the Court of Session cannot interfere. But if the Lord Lyon should grant to one person Arms which another is entitled to bear, and should refuse to give redress, there could be no doubt of the jurisdiction of the Court of Session to entertain an action at the instance of the party to have his right declared, as this would involve a question of property, which a right to bear particular Ensigns Armorial undoubtedly is." In the same case, Lord Pitmilly observes :—"As to the abstract principle, it is clear that wherever there is a competition as to the right to Armorial Bearings, an appeal lies to the Court of Session by advocation, and also by reduction, which is the proper remedy when the Arms are already granted."

[1] *Abridgement of Guillim*, by Samuel Kent, i. 5.

See also Hopingius *De Insigniis* (1642), Cap. ii. Par. xii. Membr. 3. "De propriis et alienis Insignibus;" and cap. xiv., "De actionibus Insignium Nomine competentibus."

That the term "injury" has long been regarded as synonymous with *affront* or *contumely*, will appear from the following passages, which are quoted in Wallace's *Principles of the Law of Scotland*, p. 509 :—"Injuriæ sunt quæ aut pulsatione corpus, aut convicio aureis, aut aliqua turpitudine vitam cujuspiam violant." —(Cicero, l. 4, *ad Herennium.*)

"Quodvis dictum factumve, ad alterius contumeliam dolo malo directum." — (Heineccius, *Inst.* Lib. iv. Tit. 4, "De Injuriis.")

"Delictum in contemptum hominis liberi admissum, quo ejus corpus, vel dignitas, vel fama læditur dolo malo."—(Voet, § 1 *Com. ad. ff. de Injuriis.*)

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In accordance with these established principles, Lord (Patrick) Robertson remarks, in the very latest Heraldic case that found its way into the Court of Session :—"It is enough for the Lord Ordinary to be satisfied that the subject of the wearing of Coats of Arms is matter of legal right ; and this being once settled, the dispute must be considered and determined with a due regard to the interest of the parties, just as much as if it involved large patrimonial interests."[1]

[1]. Note to Interlocutor in case of Cuninghame *v.* Cunyngham, 13th June 1849, 11 D. 1139.

CHAPTER II.

EARLY JURISDICTION OF HERALDS IN MATTERS RELATING TO ARMORIAL BEARINGS, PARTICULARLY IN SCOTLAND.

It is generally supposed that, in ancient times, every Knight who had taken part in the Holy Wars was allowed to use a Coat of Arms, but the number who assumed heraldic ensigns so rapidly increased, that it was soon found necessary to establish rules and regulations respecting their adoption. As of old the *jus imaginum* was only bestowed by Magistrates and other lawful Authorities, "ita hodie tantum illi jus insignium vel armorum conferre possunt. Sunt enim Arma tesseræ et symbola dignitatis, et nemo potest dignitatem sibi arrogare sine Principis licentia."[1] The Officers by whom these rules were carried into execution, under the authority of the Sovereign as the sole Fountain of Honour, were known by the general designation of Heralds,[2]

[1] See Mackenzie's *Science of Heraldry*, chap. ii.

In the year 1417, King Henry v. issued a writ addressed to the sheriffs of the several counties, forbidding all manner of persons thenceforth to bear any arms not derived from their ancestors, without license from himself or the officers of arms, excepting such as had borne arms at Agincourt. —(See Sir H. N. Nicolas' *History of the Battle of Agincourt*, p. 169.)

[2] "Herald est vox incertæ radicis, sed vere similior derivatio est a

who are believed to have been introduced into our own island from France—where they were first incorporated, by Charles the Sixth, in 1406 – and whose principal employment, in days of yore, consisted in the declaration of peace and war. Besides the recording of Armorial Bearings, they had to publish royal proclamations, to marshal processions, and to arrange the pageantry of coronations and other great public ceremonies: and in the days of Chivalry their office was held in very high repute. The chief of their Society, styled "Kings-of-Arms," was solemnly crowned at his installation by the Sovereign himself, and, corresponding to the *Armiger*, or armour-bearer, of the Monarch and his Nobles, every Herald had his attendant in the shape of a *Signifer* or Pursuivant.[2] "Some authors," says Lord Bankton, "are of opinion that the principal of the Heralds are designed Kings-of-Arms, because in some measure they represent the Sovereign; and a kind of ceremony of crowning them is used by the Lord Marshal of England, and they are adorned with a sort of royal ensigns; and hence it is thought there ought to be but only one King-at-Arms. This is the case with us, but in England there are three."[3]

Saxon hepe, *exercitus*, et alð, *famulus* sive *minister*, quasi minister exercitus vel armorum."—(*Spel. Gloss. Herald.*)

Among the Romans, Heralds acted as Priests, under the name of "*Feciales*," and are said to have been instituted by Numa Pompilius. Their office is described by several distinguished authors.—(See Dio. Halicar. Lib. ii.; Cicero *De Legibus*, Lib. ii.; Livy, i. 24, 32; x. 45.)

[2] This is still the case in Scotland, but in England and Ireland the number of Heralds and Pursuivants do not at present correspond.

[3] *Institute of the Law of Scotland*, Book iv. Tit. 6. § 14.

Both in England and Scotland, several of the chief Nobility appear to have had special Heralds or Pursuivants at a pretty early period. Thus, the Percys, Earls of Northumberland, had a Herald bearing their titular designation, and a Pursuivant called "Esperance." In like manner, in an Exchequer Roll for the year 1460, we find a notice of "Endure," the Signifer or Pursuivant of the Earl of Craufurd; while another Roll, four years later, bears a payment to "Endure Signifero num Lindesay *Heraldo* nuncupato." In England, at the beginning of the same century, the celebrated Scottish Earl of March (George Dunbar) had a Pursuivant under the title of "Shrewsbury," evidently given to him, according to Mr. Riddell, "from having been a main instrument of the victory gained there over Hotspur and his adherents, which fixed Henry IV. upon the throne."[1]

The Heralds of England were incorporated, in 1484, by King Richard III., whose charter was confirmed by subsequent Sovereigns, and, in a code of regulations ordered by Queen Elizabeth, they are styled the "College of Heralds"—an institution which exists in London at the present day. The head of the Corporation is the Duke of Norfolk, hereditary Earl Marshal, who has the right of nominating its various members, viz., three Kings of Arms, six Heralds, and four Pursuivants. Of the three Kings-of-Arms, "Garter," who is the first and principal, was created by Henry V., in 1417, to attend on the illustrious Order of the same name; and to him

[1] *Law and Practice in Scottish Peerages*, i. 265. See also *Quentin Durward*, vol. ii. chap. xvi.

is intrusted, among other duties, the regulation of the Armorial Bearings of the Nobility and Knights of the Bath. The two others—"Clarenceux" (formerly "Surroy" or South King) and "Norroy" (or North King)—are called Provincial Kings, because their jurisdiction divides England into two Provinces; and it is their office to arrange and register the Arms of all under the rank of Nobility. The Province of Clarenceux—a name derived by some from the Duke of Clarence, younger son of Edward III.—comprehends all to the South, and that of Norroy all to the North of the river Trent. Subordinate to the Kings-of-Arms are six Heralds, four Pursuivants, and a Registrar (who is one of the Heralds). The names of the Heralds are Windsor, Chester, Lancaster, York, Richmond, and Somerset; while the Pursuivants are denominated Rougecroix, Blue-mantle, Rouge-Dragon, and Portcullis—names probably derived from the badge or cognizance of the Sovereign during whose reign they were appointed. A fourth King-of-Arms, bearing the name of "Bath," was created in the year 1725 for the service of that Order, and although not a member of the College of Heralds, he takes precedence next after "Garter." He was the same year constituted "Gloucester" King-of Arms and "principal Herald of the parts of Wales;" and is empowered (either alone or jointly with Garter) to grant Armorial Bearings to persons residing within that Principality.[1]

[1] The ordinary occupations of the officers of the College of Heralds naturally leads to antiquarian research, in which field, as well as in general literature, many of them have been greatly distinguished. The

The head of the Office of Arms in Ireland is "Ulster" King-of-Arms—the title being derived from the Province of the same name—who acts under the direction of the Lord Lieutenant, and has the same connexion with the Order of St. Patrick as the principal English King-of-Arms has with the Order of the Garter. A King-of-Arms called "Ireland" appears to have existed as early as the reign of Richard II. After remaining uninterrupted for about a century, the succession is supposed to have become extinct, and "Ulster" was created to supply the vacancy, by Edward VI., in 1552. The other officers in the Irish College are two Heralds styled Cork and Dublin, and four Pursuivants—Athlone and three others called Pursuivants of St. Patrick besides a Registrar (who is one of the Pursuivants) and a Serjeant-at-Arms.

Many persons suppose that the Heralds of Scotland are of greater antiquity than those of the sister Kingdom, and it is generally considered that "Norroy," the most ancient of the English Kings of-Arms, had his origin in the border wars. In Scotland, as in Ireland, there is only one principal Herald or King-of-Arms, styled Lord Lyon, who derives his name and badge from the national escutcheon, to which circumstance allusion is made in the following lines of Sir Walter Scott:—

> "So bright the King's armorial coat,
> That scarce the dazzled eye could note,
> In living colours, blazoned brave,
> The Lion, which his title gave."[1]

names of Camden, Dugdale, and Ashmole, may be mentioned, as reflecting peculiar lustre on the ancient institution to which they belonged.

[1] *Marmion*, Canto iv.

Although the precise date of its institution is believed to be unknown, there can be no doubt that this office is of great antiquity. Chalmers[1] remarks that there is no trace of the Lyon King or his Heralds at the memorable coronation of Alexander III. in 1249, of which Fordun gives a very minute account;[2] nor was the same Sovereign attended by any such officers when he met Edward I. at Westminster in the year 1278. As early, however, as the coronation of Robert II. at Holyrood Abbey, on the 23d of May 1371, we find the Lyon King-of-Arms occupying a very prominent position. After the Monarch's formal acceptance of the crown and the benediction of the Bishops, "the Lyone King-of-Armes wes called one by the Lord Marishall, quho attendit one be the Herauldes, came in ther Coates,—the Lyon satt doune at the Kinges feete, and the Herauldes went to ther stage prepared for them, and ther the Marishall, by the mouthe of the Bishope of St. Andrewes, did sueire the Lyon, quho being suorne, then did he put one hes croune, ordained him to weare for that solemnity."[3]

It appears from Rymer's *Fœdera*, that the signature of the Lyon King in 1474 was "Lyon R. Armorum," and eleven years later, "Lyon Kyng-of-Armes." In

[1] *Caledonia*, i. 762, *note*.

[2] See also Nisbet's *System of Heraldry*, vol. ii. part iv. p. 106.

[3] *Heraldic and Antiquarian Tracts*, by Sir James Balfour, Lyon King-at-Arms, p. 37. Unfortunately, modern researches have proved that Sir James Balfour's authority is not altogether unimpeachable.

For a description of the ceremony, in 1630, at the coronation of Sir James Balfour, Lyon King-of-Arms, by George Viscount Dupplin (afterwards Earl of Kinnoull), Chancellor of Scotland, as Commissioner for King Charles I., see "*Account of the Office of Heraulds*," folio MS. Adv. Lib. 34. 3. 22.

Bishop Leslie's *History of Scotland*, he is termed "Leo fecialis" in 1513; while Buchanan describes him, in 1559, as "princeps fecialis, vulgo Rex Armorum."[1]

That the Lyon King-of-Arms was at one time subordinate to the Marshal and Constable of Scotland, although not proved by any direct evidence, is now generally admitted;[2] but his dependence on these great officers ceased at an early period, and the superiority of his rank to that of the English Kings-of-Arms arises from the circumstance of his holding office immediately from the Sovereign, by commission under the Great Seal; whereas his brethren in the South are deputies to the Earl Marshal, under whose authority they act. So sacred was the Office of the Lyon formerly regarded, that in the year 1515 Lord Drummond was declared guilty of treason, and forfeited in Parliament, "eo quod Leonem Armorum Regem, pugno violasset, dum eum de ineptiis suis admoneret;" and he was only restored, upon his humble submission, at the earnest solicitation of the King-at-Arms. Before the Revolution, in accordance with the custom already noticed, the Lyon King was solemnly crowned, on his admission into office, by the Sovereign or his Commissioner, in presence of the Nobility, Officers of State, and other distinguished personages, after an appropriate Sermon in the Chapel Royal; and his diadem was of the same form as the imperial crown of the Kingdom, not set with stones, but

[1] Lib. xvi. cap. xliii.

[2] See Decree by Sir David Lindsay of the Mount, Lyon King-at-Arms, in 1554, quoted in the *Report on the Office and Court of the Lord Lyon* (1822), p. 5.

only enamelled. At the coronation of Charles I. at Edinburgh, in 1633, the Lyon King "having a crown upon his head, carried in his hand the vessel containing the sacred oil: two Heralds walked on either side of him; the trumpets sounded, and so they marched."[1] In virtue of his office and by Royal bounty, the Lyon was freed from all kinds of taxation—an immunity, however, which, in common with certain other privileges, he has long ceased to enjoy.

According to Nisbet,[2] the Lord Lyon has precedency of all Knights and Gentlemen within the Kingdom, not being Officers of State or Senators of the College of Justice. Sir George Mackenzie informs us that "the Lyon and the Usher of the Parliament (*Ostiarius*) do debate who shall go next to the King or his Commissioner, in Parliaments and Conventions, the Usher pretending that if he behoved to go after the Lyon, he behoved to go before the Heralds, and so he behoved to walk between the Lyon and his Brethren, which were not decent (though both in England and with us I find that several degrees of persons do, in all processions, walk between the Garter or Lyon and his Brethren Heralds): Likeas it is implied in the nature of the Usher's Office, that he should immediately usher him to whom he is Usher; but in England I find that at the cavalcade, when his Majesty entered London, *anno* 1660, and at his Coronation, Garter King-of-Arms did walk in the midst, having the Mayor of London on his left hand,

[1] *Harl.* MSS., No. 4707, British Museum.

[2] *System of Heraldry*, vol. ii. part iv. p. 166.

and the Knight of the Black Rod on his right. And the author of *Les Mémoires des Ambassadeurs* tells us that, *anno* 1629, at the procession for celebration of that solemn peace betwixt France and Spain, the King-of-Arms did walk immediately before the French King—*le roy d'armes marchant immédiatement devant le roy.* I am likewise informed that, in England, the precedency runs thus:—King-of-Arms, Usher of the Black Rod, Master of Ceremonies, and after him the Gentlemen of the Privy Chamber, etc."[1]

The Regalia of the Lord Lyon, which he only wears on solemn occasions, are a crown of gold, with a crimson velvet cap, a gold tassel, and an ermine lining; a long crimson velvet robe, doubled with silver-coloured Spanish taffeta, and embroidered, before and behind, with the national Arms in their proper tinctures; a triple row of gold chains worn round the neck with an oval gold medal pendant thereto, exhibiting on one side the Royal bearing, and on the other St. Andrew with his cross, enamelled in proper colours; and a baton of gold enamelled green, powdered with the badges of the Kingdom. At all other times he wears the oval gold medal or badge on his breast, suspended by a broad green ribbon. The Insignia of the Scottish Herald Office are, *argent*, a lion sejant, full-faced *gules* (being the crest of the national achievement), holding in the dexter paw a thistle slipped, *vert*, and in the sinister an escutcheon of the second; on a chief, *azure*, a St. Andrew's cross of the first. These arms were carried, impaled with his own

[1] *Treatise on Precedency*, chap. viii.

paternal coat, by Sir Alexander Erskine of Cambo, who was appointed Lord Lyon in 1681. Behind the shield,

which was surmounted by an imperial crown and surrounded by the collar of the Order of the Thistle, were placed two batons *semés* of thistles, while St. Andrew crosses disposed in saltire appeared at the bottom and also at the top of the escutcheon, on either side of the crown. This official shield, however, is said to be no older than Sir Alexander's own time. The Seal appended to Patents of Arms by his father, Sir Charles Erskine, who was also Lord Lyon, bears only his paternal ensigns, and anciently the seal or badge used by our principal Heralds exhibited the Royal Arms of the Kingdom.[1]

The Lord Lyon has always held the appointment of King-of-Arms to the Order of the Thistle, at whose chapters and ceremonials he attends, calling over the names, and bearing the ensigns before the Knights-elect. As, however, these duties were considered to be scarcely consistent with the dignity of a Peer, King William IV. dispensed with their performance so long as the Earl of

[1] See Nisbet's *System of Heraldry*, vol. ii. part iii. p. 42.

Kinnoull, the present Lord Lyon, held that office; and accordingly they have been discharged either by deputy or by the Secretary to the Order.[1] The Lord Lyon receives the sum of £70 at the election of every Knight of the Thistle, and his appointment as King-of-Arms to that illustrious Order is thus briefly expressed in the statutes of King James and Queen Anne: "The Lyon shall have robes and badges upon the shoulder conform to the Secretary. In his hand his staff of office, and about his neck his badge with the St. Andrew turned outwards."

According to Noble,[2] at the Union of the two Kingdoms of England and Scotland, it was agreed that the Lord Lyon should be accounted the Second King-of-Arms in all public ceremonies, taking place next after Garter; and such rank was always assigned to him during the reigns of Queen Anne and her successors, after the year 1707. The same author informs us that at the installation of Prince Henry, eldest son of James VI., when elected a Knight Companion of the Garter, the procession consisted of "alms-knights, prebends, pursuivants, heralds, Ulster King-at-Arms, Lyon King-at-Arms, and Clarenceux King-at-Arms (these two walking together), the four new elected Knights, the other Knights Companions, Black Rod, Garter principal King-at-Arms, Registrar, Chancellor, and the Sovereign's representative leading the Prince in his hand."[3] A Scottish writer asserts that "the office and station of the Lord Lyon in Scotland, are similar to those of Garter King-at-Arms

[1] See Dodd's *Manual of Dignities, Privilege, and Precedence*, p. 229.

[2] *History of the College of Arms*, p. 330.

[3] *Ibid.* p. 191, *note*.

in England;" and that "at the coronation of George III. the Lord Lyon and Garter Kings-at-Arms walked abreast, immediately preceding the Lord Great Chamberlain of England."[1] In one of the articles of the Royal Ordinance, issued 17th May 1833, relative to the Order of St. Patrick, it is expressly declared that "in all ceremonials and assemblies, Ulster King-of-Arms shall have place immediately after the Lord Lyon King-of-Arms of Scotland." Sir Harris Nicolas remarks that "this regulation does not precisely fix Ulster's precedency, inasmuch as the position of the Lord Lyon in England has never been settled by any ordinance,"[2] as contemplated by the 24th Article of the Treaty of Union. Considering the great antiquity of the office, however, and the comparatively high position of the Lord Lyon, to which we have already referred, in consequence of his holding his appointment by Commission immediately from the Sovereign, he appears to be fully entitled to rank next after Garter in all public ceremonies in England and Ireland; while on this side of the Tweed, in accordance with other heraldic analogies, the official precedency of the two Armorial Kings ought unquestionably to be inverted.[3]

The power of regulating the use and assumption of Armorial Bearings, which was at one time vested in the Heralds jointly, is now exercised by the Lord Lyon alone. He discharges the duties of his office by a Deputy, nominated by himself and known by the designa-

[1] Arnot's *History of Edinburgh*, (1779), p. 492.

[2] *Orders of Knighthood*, vol. iv. p. 87.

[3] See Mackenzie's *Treatise on Precedency*, chap. viii., with reference to the precedency of the *Nobility* of England and Scotland in the two Kingdoms respectively.

tion of "Lyon-Depute;" and this devolution of his powers has been generally traced to the year 1662, when he first acquired the title of "*Lord* Lyon King-of-Arms." Professor Lorimer, however, remarks that "the now prevalent custom of speaking of the *Lord* Lyon, though not entirely destitute of the countenance of earlier usage, seems to have arisen from the accidental circumstance of the present holder of the office, and his immediate predecessor, being peers. In 1587, c. 46, he is throughout called 'the Lyon' simply, though the Act speaks of 'the Lords of Council and Session;' the same is the case in 1592, c. 127. But in 1662, c. 53, an Act which never passed the Seals, and which was rescinded by 1663, c. 15, he is twice called the *Lord* Lyon, and he is so called also in the repealing statute. The old form, however, is reverted to in the important Act 1672, c. 21, by which the office and Court of 'the Lyon' were placed on their present footing, after the Restoration."[1] Formerly Scotland, like England, was divided into two provinces, the one on the north and the other on the south side of the Forth, and these provinces were under the management of *two* Deputies, appointed by the Lord Lyon for the execution of all the business of his office. The right of the Lyon King-of-Arms, *or his Deputies*, "to visit the whole Armes of Noble-men, Barons, and Gentle-men, etc.," is recognised by the Act 1672, c. 21, which is the latest Scottish statute on the subject of Armorial Bearings; but it is by no means clear whether the term

[1] *Handbook of the Law of Scotland*, 2d Edit. p. 441, note. The author of this useful manual holds the office of Lyon-Clerk.

"Deputies" there used may not be understood to signify "his Brether Herauldes," as described in preceding statutes. At all events, the practice of naming at least one Depute existed as far back as the end of the seventeenth century, and since the year 1760 it would appear that the duties of the Lord Lyon have been performed in part, if not altogether, by Deputy.[1] The Report of the Commissioners appointed to inquire into the state of the Lord Lyon's department, in 1822, concludes with a series of proposals for the regulation of the Lyon Court, in which some anxiety is expressed with reference to the appointment of a proper person to the office of Lyon-Depute. The Commissioners recommend "that, as the duties of the Lyon-Depute are of a *judicial* nature, it should be provided that the person to be appointed by the Lord Lyon as his Deputy should be a member of the Faculty of Advocates, of not less than three years' standing at the Bar."

Besides the Lyon-Depute, the Lord Lyon appoints a *Clerk* and *Clerk-Depute*, who both prefix the designation of "Lyon," a *Procurator-Fiscal* to sue before him, a Messenger to act as his *Macer*, and a *Herald-painter*. At certain periods between the years 1769 and 1819, the offices of Lyon-Depute and Lyon-Clerk were held by the same individual, but were again wisely disunited by the present Lord Lyon; a proceeding highly approved of by the Commissioners, in the Report already referred to, from the obvious inexpediency of conjoining the duties of Judge and Clerk in one person, and thereby

[1] See Report on the Office and Court of the Lord Lyon, 1822, p. 22.

removing, in a great measure, the proper guarantee of regular procedure.

The *Heralds* attached to the Lyon Court are six in number, viz., Islay, Rothesay, Marchmont, Albany, Ross, and Snowdon, and they have their precedency according to the dates of their creation. All their designations, which are very ancient, are of local origin. Islay has his denomination from one of the Western Islands. Rothesay has his title from the Castle of the same name, an ancient residence of the Scottish Kings, in the isle of Bute. Marchmont is so denominated, from the name by which Roxburgh Castle is known in our early histories.[1] Albany is named from the whole realm, called by the Highlanders "Albanach," and is said to have been in the habit of attending on the Dukes of Albany. Ross derives his title from the county of the same name, which was of old an appanage of the Crown. Snowdon is named from Snowdon Castle in the shire of Ross, another ancient residence of the Scottish Monarchs.

In the 22d chapter of the folio MS. in the Advocates' Library, to which we have already referred, we find a series of elaborate instructions to Heralds as to "how they sould behave themselvis, and what they aught to doe and what not." Their *negative* duties are quaintly set forth under the nine following heads:—

1 "The same association which led the unfortunate Prince (James III.), whose father fell in assaulting Marchmont (or Roxburgh) Castle, to adopt the name for one of his Heralds, and his chivalrous son to blazon it around his shield, still attaches to the green mound which the Teviotdale peasant shows as the site of 'the Castle of Marchmound.'"—Innes' *Sketches of Early Scotch History*, p. 173.

"1. Not to haunt baiss aill housis, tavernes, etc.
2. Not to be found drunke.
3. Not to reveill secreits of business comititt to ther charge.
4. Not to be sturrers of stryffe and descensione betwixt pairties.
5. Not to refuse the comands of ther Prince and Superiors in matters belonging to ther office.
6. Not to live idlie, but give themselvis to the studie of Herauldrie, Eloquence, Historie, and the Lawes, to the search of Records, Monuments, and Antiquities, and to other verteous exercises.
7. Not to be followers of false suits and forgeries by law.
8. Not buyers, mainteners or followers of plees against Orphanis and Widowes or poore people.
9. Lastlie, they ought not to doe or committ ony offence or cryme, quherby they may ather blemish the honor and dignitie of their heigh calling, or staine the Royall coatt of their Soverane Lord and Maister."

As in the case of the Heralds, the *Pursuivants* are also six in number, and bear the names of Kintyre, Dingwall, Carrick, Bute, Ormond, and Unicorn, all being local denominations, with the exception of the last, which is probably derived from the Supporters of the Royal Arms of Scotland. At the end of the fifteenth century there appear to have been only *five* of each class, *Lyon* Herald being then the designation of one of the former; but since that period both their names and number have been the same as at present.

"Heralds and Pursuivants, by name
Bute, Islay, Marchmont, Rothsay, came,
In painted tabards, proudly showing
Gules, Argent, Or, and Azure glowing,
Attendant on a King-at-Arms,
Whose hand the armorial truncheon held,
That feudal strife had often quelled,
When wildest its alarms."[1]

[1] *Marmion*, Canto iv.

Both the Heralds and Pursuivants receive their commission from the Lord Lyon, usually for life; and whatever may have been the case in former times, the only duty now incumbent upon them is attendance at Royal proclamations, coronations, and other public solemnities.

Anciently, there appear to have been three different kinds of Robes for heraldic officials, the "Tunique or Dalmatique" having been peculiar to the King-of-Arms, the "Palique" to the Herald, and the "Coat of Arms" to the Pursuivant. The following entry occurs in the Lord High Treasurer's Accounts, under the year 1488:—"IX. Coyt Armouris for the Harroldis and Purcyfantis." "As for the moderne fashione of coates used in the realme of Scotland by the King of Armes, Heraulds, and Pursevants, they ar for modell all on, eftir the Dalmatic fashion, and differs in this that the King of Armes Coat is of Cloth of Tishew and Velvet ritchlie embroydred with Gold and arrayed with Pearles, crowned with the Imperiall Croune of Great Brittain and doubled with crimpsone satin. The Heraulds coates ar onlie of Satine partialie embroydred with purple and silk and doubled with taffety, adorned with the single escutcheone onlie. The Pursevants Coates ar of Damask onlie paintit by Paintirs pincell with the single escutcheone in metall and collor and doubled with collor."[1]

The present Tabards of the Scottish Heralds and Pursuivants were supplied as far back as the year 1820, and have accordingly seen a good deal of service. They are embroidered with the Imperial Arms, including the

[1] *Account of the Office of Heraulds*, MS. Adv. Lib. 34. 3. 22.

ensigns of Hanover. The official Robes of the Lord Lyon are believed to have been burnt in the fire which occurred at Dupplin Castle upwards of thirty years ago.

Attached to this department of the Office of Arms are six *Trumpeters*, who are supposed to be functionaries of comparatively modern origin. Mention is made of them, in connexion with the Heralds and Pursuivants, in the account of the creation of the Marquises of Hamilton and Huntly, on the 17th of April 1599.

The *Macers* were formerly reckoned among the Officers-at-Arms, and in early times were placed after the Pursuivants, but from the institution of the Court of Session in 1532, they took precedence of these functionaries, and having no longer any connexion with the Lyon Office, they attend solely upon the Judges of the Supreme Court.

After the Pursuivants are now ranked the *Messengers-at-Arms*, of whom there is a certain number in nearly every shire of the kingdom, at present amounting in all to about one hundred; and it is their duty to execute the process and letters of the Superior Courts. They are appointed and removed by the Lord Lyon, and it is clear from an Act passed towards the end of the sixteenth century (1587, c. 46), containing various provisions respecting these officers, that before that period he exercised control over them, both as to their admission and the trial of complaints against them.

The authority and jurisdiction of the Scottish King-at-Arms is, therefore, of a twofold character, embracing,

first, the superintendence and regulation of all matters connected with Armorial Bearings; and, *secondly*, the nomination and control of the whole body of Messengers-at-Arms, in which last respect he may be regarded as essentially at the head of the civil branch of the executive department of the Law. Accordingly, it has been suggested that it might deserve consideration whether it would not be expedient, with a view at once to give unity of management to the entire department, and to relieve the Sheriff of all but judicial duties, to impose upon the Lord Lyon and his Officers the execution of process of every kind, and the whole ministerial powers of the Sheriff, in so far as these are executive or auxiliary to the Courts of Law.[1]

[1] See *Encyclopædia Britannica*, 7th edition, xix. 761.

CHAPTER III.

JURISDICTION OF THE LORD LYON IN MATTERS OF HERALDRY.

In former days the Lyon King-of-Arms appears to have refused the use of a Coat Armorial to none who were able to maintain a horse with furniture for the service of the Sovereign:—"Dummodo heretici non sint, contra fidem, ex illegitimo toro prognati, vel ex ignobili sanguine oriundi, sed viri probi et honesti nominis."[1] Whatever may have been the case at an earlier period, the Lyon had an ordinary jurisdiction in matters of Heraldry before the middle of the sixteenth century, subject, probably, to the Constable or Marshal. This is clearly proved by the original Register of the Arms of the Nobility and Barons of Scotland, by Sir David Lindsay of the Mount, Lyon King-of-Arms, which is still preserved in the Library of the Faculty of Advocates, and of which a *fac simile* was published about thirty years ago, under the able superintendence of Mr. David Laing. This curious manuscript, which appears to have been emblazoned about the year 1542, is authen-

[1] See *Nisbet's Heraldry*, vol. ii. pt. iv. p. 166.

ticated as the official Record, by the following attestation at the end of the volume :—

"This Booke and Register of Armes, done by Sir David Lindesay of the Mount, Lyone King-of-Armes, Regn. Ja. v., contains CVI. leaves, which register was approvene be the Lordis of his Majesties most honorable Privie Counsale at Halierude house, ix. Decem. 1630.

(Signed) Sir James Balfour, *Lyone.*

Thomas Dryisdale, *Ilay Herald, Register.*"

The irregularities in the bearing of Coat Armour, which are believed to have resulted from the gradual disuse of Seals as a documentary solemnity, towards the close of the sixteenth century, had in all probability an important influence in inducing the Scottish Parliament to make some statutory provisions upon the subject. Accordingly, the first legislative enactment which *directly* bestows a jurisdiction upon the Lyon in questions of Armorial Bearings is the Statute 1592, c. 125,[1] by which he is empowered to *inspect* the Arms of all Noblemen, Barons, and Gentlemen, to *distinguish* them with proper differences, to *matriculate* them in his Books and Registers, "to *put inhibition* to all the common sort of people, not worthy by the law of Arms to bear any signs armorial;" and, finally, to *enforce certain penalties* against those persons who presumed to use heraldic ensigns without lawful authority.

The jurisdiction of the Lyon King in matters of Heraldry was more fully set forth in an Act passed after

[1] Folio Edit. c. 29.

the Restoration (1662, c. 53), by which he was declared to be the only competent judge in all questions respecting the distinction of Arms to be worn by the younger branches of families, of whose descent he was authorized to take evidence; and also empowered "to punish, according to the Acts of Parliament made against the bearers of false arms," all those who ventured to assume any additions to their Coats Armorial without his approbation. Besides other provisions, the same statute ratified and confirmed a grant by Charles I. to the Lyon King-of-Arms, of certain fees and casualties payable at the funerals of Prelates and Noblemen, and conferred on the said Lyon and his successors in office full exemption from all taxation, whether then subsisting or to be imposed in time coming. It is unnecessary, however, to make any further observations upon this statute, as it was repealed in the following year (1663, c. 15).

The next legislative enactment on the subject of Armorial Bearings, 1672, c. 21,[1] renews and confirms the powers granted in 1592, and makes provision for their more effectual execution, by commanding all persons who use Ensigns Armorial to send an account of the same, within a year from the publication of the Act, with authenticated certificates of their use of the said ensigns, as well as of their descent, in order, as formerly, that the Lyon may distinguish their Arms with proper differences and matriculate them in his Books. This statute further expressly authorizes the Lyon to give Armorial Bearings "to virtuous and well-deserving per-

[1] Folio Edit. c. 47.

sons," and to furnish extracts, or authenticated copies, of Arms, under his hand and Seal of Office, for which certain payments are appointed to be made, according to the quality of the Bearer. It also remits any penalties that may have been incurred previous to the date of its enjoined publication, and after declaring that the Lyon's Register "shall be respected as the true and unrepealable rule of all arms and bearings in Scotland," it repeats, with some modification, the pains which are denounced against the wearers of false arms by the Act of 1592.

By these two statutes (1592 and 1672), the jurisdiction of the Lyon King in questions of Armorial Bearings is fully established; and, accordingly, for a period of two hundred and seventy years, he has been legally empowered to regulate their use and assumption. His authority is reserved entire in the nineteenth article of the Treaty of Union, by which, after a notice of the Court of Session and other Supreme Judicatures, it is distinctly declared "that all other Courts now in being within the Kingdom of Scotland do remain;" while the twenty-fourth article provides "that the quartering the arms, and the rank and precedency of the Lyon King-at-Arms of the Kingdom of Scotland, as may best suit the Union, be left to her Majesty." Finally, it may be stated upon this point, that the Lord Lyon's authority in questions of Armorial Bearings has been expressly sustained by more than one decision of the Court of Session.

It is important, however, to ascertain whether or not the jurisdiction of the Lord Lyon, in matters of Arms, admits of any limitation. There is no very distinct de-

finition of his authority in any of our institutional writers. Lord Stair is altogether silent upon the subject, and Erskine merely states that "in the list of *inferior* judges may also be placed the Lyon King of Arms," and that "the extent of his jurisdiction is set forth in several statutes," of which he enumerates the principal provisions.[1] "The Court of Session," says Lord Kames, "hath an original jurisdiction in matters of property, and in everything that comes under the notion of pecuniary interest. But this Court hath not an original jurisdiction in matters of rank and precedency, nor in bearing arms. Controversies of this kind belong to the jurisdiction of the Lord Lyon." He adds, moreover, that "to determine a right of Peerage, is the exclusive privilege of the House of Lords."[2] In the language of Erskine, "the jurisdiction of the Lords of Session in civil matters is, 1st, Universal as to extent, and 2dly, Supreme in degree. As to the first, it is expressly declared to extend to all civil causes, 1537, c. 36. And though private right or property is, without doubt, the chief and most proper subject of their jurisdiction, they are also competent to several questions which carry no pecuniary or patrimonial interest, *e.g.*, to elections of magistrates of boroughs, of commissioners of supply, etc."[3] That the Lord Lyon possesses a *ministerial* power in questions of Armorial Bearings has always been universally acknowledged, but that his jurisdiction is *priva-*

[1] *Institute of the Law of Scotland*, Book i. Tit. 4. §§ 32, 33.

[2] *Law Tracts*, 2d Edit. (pub. 1761), p. 211.

[3] *Institute of the Law of Scotland*, Book i. Tit. 3. § 18.

tive (that is, final and exclusive) has for some time at least been virtually denied. From the Earl Marshal of England, the head of the "College of Heralds," it is competent to appeal to the Sovereign in Council; and the language of at least one of the Scottish statutes already referred to,[1] as well as the attestation at the end of Sir David Lindsay's Register of Arms, seem to lead to the conclusion that a similar rule formerly existed in Scotland. Speaking of the Scottish Privy Council, the author just quoted informs us that they "came at last, besides their powers in matters of state and public police, to have a fixed supreme jurisdiction in all questions of wrong, for which no redress could be had in the common courts of law, and in all causes where the public peace was concerned. Thus, they inquired into and punished violent encroachments upon possession, all acts importing oppression, concussion, or contempt of the laws or of public authority; they decreed alimony to pupils, and to wives barbarously used by their husbands; and judged in many other questions of that sort where summary proceeding was necessary. These powers continued in the Scottish Privy Council till an Act passed soon after the Union, 6 Anne, c. 6, whereby that court was abolished, and sunk into the Privy Council of Britain, which, for the future, was declared to have no other powers than the English Privy Council had at the time of the Union. What the powers of a British Privy Council are, it does not much import a Scottish lawyer to know: it is certain, that they have no judicial powers that can affect

[1] 1662, c. 53. See also 1672, c. 21.

Scotsmen; for, though they may commit them to custody for crimes against the State, and examine them, they have no right of trial."[1] Under these circumstances, therefore, the right of appeal to the Privy Council from the judgments of the Lord Lyon, if it ever did exist, ceased at the Union, at which period, according to Erskine,[2] the extraordinary powers of the Scottish Privy Council were transferred to the Court of Session. At all events, there can be no doubt that, for some time past, the Court of Session has regarded the jurisdiction of the Lord Lyon as subject to its review and control;[3] but it is equally certain that the proceedings of that Judge, in so far as he grants Armorial Bearings, cannot be disturbed by the Supreme Court, unless he thereby invades the rights of others. Accordingly, that tribunal will not entertain an action of reduction of a matriculation of Arms, at the instance of a party who does not claim them for himself, upon the mere ground "that the Arms blazoned are not such as the defender (or person challenged) is entitled to bear."[4]

Thus, about the middle of last century, the Laird of Dundas complained to the Lyon that Dundas of Fingask had got from the Lyon's predecessor, in the year 1744, a grant of armorial bearings, to which he and his ancestors had right many ages before. The matter was brought

[1] *Institute of the Law of Scotland*, Book i. Tit. 3. § 9.

[2] *Ibid.* § 23. See also Shand's *Practice of the Court of Session*, i. 41, *et seq.*

[3] See Dundas *v.* Dundas, 22d Jan. 1762. Brown's *Supt.* v. 493. Proc. Fisc. of Lyon Office *v.* Murray, 24th June 1778. Mor. 7656. Cuninghame *v.* Cunyngham, 13th June 1849, 11 D. 1139.

[4] M'Donnell *v.* Macdonald, 20th Jan. 1826, 4 S. 371.

before the Court by an advocation at the instance of Fingask. Dundas disputed the competency, but his plea was soon abandoned ; and on the merits, the Lords, on the 22d of January 1762, pronounced this interlocutor :—"Find that George Dundas of Dundas, heir-male of James Dundas of that Ilk, who was forfeited in the year 1449, but afterwards rehabilitate, has the sole right to use and bear the Coat of Arms belonging to Dundas of that Ilk, as matriculated in the Register, authenticated by the subscription of Sir James Balfour, then Lord Lyon ; and find that the Coat of Arms obtained, in 1744, by Thomas Dundas, Defender, from the late Lord Lyon, was obtained by obreption, and that he has no right to use the same ; and therefore ordain the said Coat of Arms to be recalled and expunged from the Lord Lyon's Books, reserving to the said Thomas Dundas to apply for a new Coat of Arms as accords : Find the Defenders, Thomas Dundas of Fingask and Thomas Dundas of Quarrel, liable to the Pursuer in the expense of the complaint before the Lord Lyon's Court, and in the expense of this process of advocation. And to this interlocutor the Lords adhered."

On the other hand, however, in the later case of M'Donnell *v.* Macdonald, to which we have already referred, the Court dismissed, as incompetent, an action of reduction of a matriculation of Arms, in which the Pursuer (M'Donnell of Glengarry) did not set forth that he had a right to the Arms in question. The summons concluded for reduction of the matriculation of the Arms of "Reginald George Macdonald of Clan Ranald, Esquire,

Captain and Chief of Clan Ranald," as entered in the Lyon Register on the 9th of August 1810, on the grounds that "the Arms blazoned were not such as the defender is entitled to bear," and that the defender "is not chief of Clan Ranald." The pursuer designed himself "of Glengarry" and "heir-male in general duly served and retoured to Æneas, Lord M'Donnell and Arros, who was recognised by the King's Commissioner and Privy Council, in 1672, as Chief of the Name and Clan of McDonald," and stated that the matriculation sought to be reduced was to his "great hurt and prejudice." He did not, however, set forth that he was the Chief of Clan Ranald, or that he was entitled to bear the Arms which had been matriculated as the ensigns armorial of the defender; and moreover, in the year 1797, he himself had matriculated Arms which were essentially different.

But apart altogether from the right of the Court of Session to review, in certain instances, the judgments of the Lord Lyon, it is important to observe that not above six or seven heraldic cases are reported as having occupied the attention of that supreme Tribunal from the period of its institution to the present time. Of these, the most remarkable have already been referred to, and to some of them it will be necessary to advert more fully by and bye. Practically, therefore, from the very rare occurrence of such cases in the Court of Session, it may be pretty safely asserted that the general settlement of heraldic questions is left—and very properly—to the Lyon King-of-Arms.

The special jurisdiction of the Lord Lyon in matters of Heraldry will, of course, be best ascertained by a careful examination of the two Statutes already referred to, of which it has been thought advisable to introduce the subjoined analysis :—

(I.) ANALYSIS of ACT 1592, c. 125. (JAC. VI.)

"*Concerning the Office of Lyon King-of-Arms and his brother Heralds.*"

I. PREAMBLE. In which is set forth the great abuse among the Lieges in the bearing and usurpation of Arms, so that Gentlemen of Blood and those descended of Noble Stock and Lineage cannot be distinguished.

II. PROVISIONS. Full power granted to the Lyon King-of-Arms and his brother Heralds :—

1. To visit the whole Arms of *Noblemen*, *Barons*, and *Gentlemen*, borne and used within the realm, in order,—
   1*st*, To *distinguish* and discern them with congruent differences.
   2*d*, To *matriculate* them in their Books and Registers.
2. To put inhibition to all the *common sort of people*, not worthy by the law of Arms to bear any Signs-Armorial.

III. PENALTIES for each contravention of the Act :—

1. *Escheat* to the Sovereign of all goods and gear whereon Arms unlawfully assumed are found graven or painted.
2. *Payment* of one hundred pounds to the Lyon and his brother Heralds ; and failing payment,
3. *Incarceration* in the nearest prison, during the pleasure of the Lyon.[1]

(II.) ANALYSIS OF ACT 1672, c. 21. (CAR. II.)

"*Concerning the Privileges of the Office of Lyon King-at-Arms.*"

I. PREAMBLE, containing :—

1. Reference to the provisions of Act 1592.

[1] This Statute also contains provisions regarding the execution of letters of treason, and the admission and number of officers-at-arms ; and enjoins all civil magistrates, when required by the Lyon, to concur with him in carrying out the various powers conferred upon his office.

2. Notice of continued irregularities in the assumption of Armorial Bearings. (Followed by a general ratification of the Act of 1592.)

II. Provisions.

1. Within a year after the enjoined publication of the Act throughout the Kingdom, all Prelates, Noblemen, Barons, and Gentlemen, who make Use of any Signs-Armorial,—(1.) To bring or send to the clerk of the jurisdiction where they dwell, or to the Lyon-Clerk in Edinburgh, an account of the Arms they are accustomed to bear; (2.) Stating also whether they are descendants of any family, the Arms of which they use, and from what brother of the family they happen to be sprung; (3.) With certificates from persons of honour, Noblemen or Gentlemen of quality, anent the verity of their having and using the Arms they claim, and of their descent as aforesaid, to enable the Lyon King-of-Arms,—

   1*st*, To *distinguish* the said Arms with congruent differences.

   2*d*, To *matriculate* the same in his Books and Registers.

2. The Lyon to give Arms to *virtuous and well-deserving persons.*

3. To furnish *extracts* (or authenticated copies) of all registered Arms, expressing their blazoning, under his hand and seal of office, the payments for said extracts being :—

By Prelates and Noblemen,	. . .	20 merks.
Knights and Barons,	. . .	10 ...
All other persons,	. . . .	5 ...

4. Remission of any penalties that may have been incurred previous to the publication of this Act.

5. The Lyon's official Register to be respected as the true and unrepealable rule of all arms and bearings in Scotland.

III. Penalties for the unauthorized use of Arms after the lapse of a year from the publication of this Act :—

1. *Escheat* to the Sovereign of all moveable goods and gear whereon the said Arms are engraven or otherwise represented.

2. *Payment* of one hundred pounds, *toties quoties*, to the Lyon.[1]

[1] This Statute concludes with certain provisions respecting the subscription of titles and names, and with a general ratification to the Lyon and his brother Heralds of all the privileges secured by the laws of the kingdom, and enjoyed by former practice.

Both of these Statutes recognise a *twofold* classification of the lieges, viz., those who are, and those who are not, worthy by the law of Arms to use heraldic ensigns. The main object of the first enactment was to check their unwarrantable assumption by "the common sort of people," and, in consequence of continued irregularities, it became necessary to make further provisions in the year 1672.

The persons worthy by the law of Arms to use Armorial Bearings were :—

1. Those who were entitled to do so prior to any statutory enactment on the subject.
2. Virtuous and well-deserving people, on whom the Lyon was authorized to bestow the privilege.

1. In days of yore, the right to bear Armorial Ensigns depended either on *immemorial custom*, which has always in itself been deemed sufficient, or on *direct Royal concession*, the Sovereign being then, as now, the chief fountain of honour.[1] From the language of the Statutes now under consideration, it would appear that, prior to their enactment, this right was exercised by all Noblemen, Barons, and Gentlemen, in addition to whom the Act of 1672 specifies Prelates, and also makes incidental allusion to Knights, who are classified along with Barons. Of these degrees of rank, it is only necessary to define the Barons and Gentlemen. *Barons*, or Lairds,

[1] Although the power of granting Armorial Bearings has long been exercised by officers duly appointed for that purpose, the privilege of direct concession has never been surrendered by the Sovereign, and accordingly all patents of nobility either specify the appropriate heraldic ensigns, or command them to be furnished by the King-at-Arms.

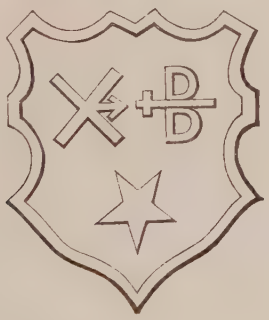
were such as held their lands immediately of the Crown, and possessed both a civil and criminal jurisdiction. They sat in the Scottish Parliament, along with the Nobles (or *greater* Barons), until the year 1427, when their attendance was dispensed with, on condition of their sending representatives from each county, who were designed "Commissioners of the Schires." In modern times their jurisdiction was greatly reduced, and is now seldom if ever exercised.[1] *Gentlemen* were such as were descended from "worshipful houses," and were distinguished from citizens, merchants, artisans, and others, who were considered to occupy an inferior rank. Camden informs us that of old there was a distinction between Gentlemen of *Blood* and Gentlemen of *Coat-armour*, and that the third from him who first bore coat-armour was to all effects and purposes a Gentleman of Blood. The preamble of the Act of 1592 makes special mention of Gentlemen of Blood and those descended of noble stock and lineage, who are clearly presumed to be entitled to use Armorial Bearings.

Certain arbitrary devices, usually termed "merchants' marks," were assumed by persons of the middle ranks not entitled to coat-armour; and rude monograms were adopted as characteristic signs, by the early painters, printers, and others, in allusion to their peculiar pursuits.[2] In "The Duty and Office of an Herald," by F.

[1] For notices of the Minor Barons, see *Lives of the Lindsays*, i. 57 and 147.

[2] See Lower's *Curiosities of Heraldry*, p. 41; Newton's *Display of Heraldry*, chap. xlvii.; and Paper by Mr. Albert Way, in the *Gentleman's Magazine*, vol. xliii., New Series, p. 270 (1855.)

Thynne, Lancaster Herald, 1605, the officer is directed "to prohibit merchants and others to put their names, marks, or devices, in escutcheons or shields, which belong to gentlemen bearing arms, and none others." The practice in question appears to have prevailed to some extent in Scotland during the seventeenth century, and a strange combination of heraldic and other devices is occasionally to be found within the same escutcheon. Thus, on a flat tombstone in the Greyfriars' burying-ground at Perth, commemorating the death, in the year 1618, of



"ane honorabil woman Helen Colt spouse of Henry Anderson," a heraldic shield occurs charged with a couped saltire and a mullet, in addition to another curious figure —the saltire and mullet forming the principal charges in the armorial ensigns of the surname of Anderson.

Both of the Statutes under consideration, while they acknowledge the general right and title of Noblemen, Barons, and Gentlemen to use heraldic ensigns, expressly authorize the Lyon to distinguish *all* Arms borne within the kingdom, "with congruent differences," and thereafter to matriculate them in his official Register. For

the accomplishment of these objects, he is empowered, by the Act of 1592, to visit the whole Arms of Noblemen, Barons, and Gentlemen; while the later Statute enjoins all such persons, who make use of any signs-armorial, to bring or send an account of the same, accompanied by duly authenticated certificates of their descent, either to the clerk of the jurisdiction within which they reside, or to the Lyon-Clerk in Edinburgh. This latter provision applies more especially to the *Cadets* of families, of which only the *Chief* is entitled to wear the simple arms, without abatement. The preamble of the Act of 1672 sets forth, "amongst the many irregularities of these late times," not only that numerous persons have adopted Armorial Ensigns "who should bear none," but also that "many of these who may in law bear, have assumed to themselves the Arms of their Chief, *without distinctions*, or Arms which were not carried by them or their predecessors." To these younger branches of families the Lyon is commanded to assign suitable marks of Cadency, in conformity with the opinion of learned Doctors, to the following effect:—"Non solum potestas conferendi nova insignia, sed potestas augendi, mutandi, diminuendi, et conformandi insignia vetera, est penes Principem et ejus Heraldos."[1]

2. As the grand fountain of honour, the Sovereign has at all times exercised the prerogative of conferring Armorial Bearings without any restriction, "although," in the words of Sir George Mackenzie, "he cannot properly

[1] Mackenzie's *Science of Heraldry*, chap. ii.

make a Gentleman, for that comes by Blood and not by Patent."[1] As a general rule, however, the intervention of the Lyon is considered necessary, and accordingly, by both Statutes, he is allowed to give Arms to certain persons who do not inherit them from their ancestors. In this respect, he appears to have possessed an indirect power under the Act of 1592, which authorized him "to put inhibition to all the common sort of people not worthy, by the law of Arms, to bear any signs-armorial." But the later enactment expressly declares that he may grant Arms to "virtuous and well-deserving persons," the interpretation of these rather ambiguous words being left to his own discretion. A similar provision has long been contained in the Lord Lyon's patent of creation. Sir Charles Erskine of Cambo, for example, who was appointed King-at-Arms in 1663, is invested "plena potestate, libertate, licentia, et auctoritate, *personis virtute præditis, et de nobis bene meritis,* diplomata armorum, secundum ordinem et constitutiones eatenus præscriptas, concedendi." An elaborate dissertation on the persons who are worthy to use Armorial Bearings, or rather, on the signification of *Civil* or *Politic,* as distinguished from *Moral,* "Nobility,"[2] will be found in the second chapter of Sir George Mackenzie's *Science of Heraldry.* That learned author considers that the right to bear Armorial Ensigns extends to Soldiers, Ecclesiastics, Orators, and Laureate Poets; but not, at least in

[1] *Science of Heraldry,* chap. ii.

[2] This nice distinction of civil lawyers repudiates the motto of more than one illustrious family—"sola virtus nobilitat."

every case, to Heritors of Land, and never to the mere possessors of Wealth. He shows, moreover, that while the privilege is extinguished by infamy and the exercise of mean trades (*viles et mechanicas artes*), it cannot be lost by those who follow liberal professions, as Advocates and Physicians, and still less in consequence of poverty, "even in the longest course of time."[1]

Notwithstanding the terms of the Act of 1592, no regular system of armorial visitation appears to have been adopted by the Heralds of Scotland. In England, on the other hand, the practice extended over a considerable period, and resulted in the collection of a large amount of heraldic and genealogical information. The most ancient English Visitation on record is said to have been made at the commencement of the fifteenth century; but the earliest Visitation, by virtue of a Royal Commission, took place during the reign of Henry VIII., in the year 1528-9, and embraced the counties of Gloucester, Worcester, Oxford, Wilts, Berks, and Stafford. From that time till the end of the seventeenth century, the different counties were visited at irregular intervals, and the Registers made during these visitations contain the pedigrees and arms of the Nobility and Gentry, authenticated by the heads of their respective families. Several of these important records are now lost or scattered, but many of them are still preserved among the archives of the College of Arms and at the British Museum. Others are to be found in the Bodleian as well as in various College libraries, while not a few are

[1] *Science of Heraldry*, chap. ii.

in private custody.[1] The Visitation of the county of York, in 1665-6, by the celebrated Dugdale (then Norroy and afterwards Garter King-of-Arms) was printed in 1859 as the thirty-sixth volume of the publications of the Surtees Society. It appears from the Preface that "nearly one-third of the whole number of gentry whom the Herald called upon to appear before him with proofs of their arms and pedigrees treated his summons with neglect." Two years after the Visitation, he issued a precept, to which a list of these families was annexed, formally interdicting them against using their arms and titles. The list contains "a few of the well-known ancient gentry of the county, besides many heads of families, whose descendants at this day would have rejoiced had they then placed their pedigrees upon record. But the majority of the names were probably then of little note, and are now wholly lost sight of."[2]

Besides declaring that the Lyon's Official Register is to be respected as the true and unrepealable rule of all

[1] See Sims' *Manual for the Genealogist*, etc. A Catalogue of the Visitations in the British Museum was printed by Sir. N. H. Nicolas in 1825, and an Index to the pedigrees and arms contained in about 250 of the principal MSS. mentioned therein was published by Mr. Sims in 1849.

[2] After the blazon of the arms and before the pedigree, such entries as the following are of frequent occurrence :—

"No proofe made of these armes."

"Qu. for proofe of these armes ?"

"Respite given for exhibiting y^e^ armes." (*Where no blazon entered.*)

"For proofe of these armes, he voucheth his father's seale, who died at the age of 88 years."

"Per me W. Dugdale Norroy concessa."

"This family have for many ages used their armes with supporters, viz., an antelope and a tyger," etc.

"To expect a certificate from Mr. A. of B. that this gentleman is of his family."

"It appears that the grant of the armes was to Sir A. B. and his descendants, therefore these have no right to them."

Arms and Bearings in Scotland, the Act of 1672 contains an additional provision with regard to *Extracts* (or authenticated copies) of the same, under the hand and seal of the Lyon, which he is authorized to furnish on payment of certain fees already enumerated.

The Penalties imposed by both enactments, for the unlawful assumption of Armorial Bearings, are almost identical, being—

1. Escheat to the Sovereign of all goods and gear whereon "false Arms" are found graven, painted, or otherwise represented.

2. Payment of one hundred pounds, *toties quoties*, to the Lyon. Failing payment of the fine, the Act of 1592 ordains incarceration in the nearest prison "during the pleasure of the Lyon," but this alarming alternative is not repeated in the later Statute, which, in a remarkable spirit of leniency, also remits any penalties that may have been incurred "before the proclamation to be issued thereupon."

These remarks may be brought to a conclusion by the following

SUMMARY

of the duties and powers of the Lyon King at-Arms, in heraldic matters, under the Statutes of 1592 and 1672 :—

1. To assign suitable *differences* to the Cadets, or younger branches of families having a right to Armorial Bearings.

2. To record the *Genealogies* of persons descended

from noble and honourable lineage, when supported by proper evidence ; and, consequently,

3. To determine all *disputes* and *competitions* that may arise between different claimants regarding the right to use particular Coats of Arms.

4. To grant Armorial Ensigns to "*virtuous and well-deserving persons*" not previously entitled to bear them, according to his discretion.

5. To *matriculate* in his Official Register all the Armorial Bearings used within the Kingdom.

6. To furnish *extracts* (or authenticated copies) of the same, under his hand and seal of office, in accordance with a prescribed scale of charges.

7. To enforce the *penalties* imposed on the unlawful assumption of heraldic ensigns, by proceedings in his own Court.

CHAPTER IV.

PRACTICE OF THE OFFICE AND COURT OF THE LORD LYON IN MATTERS OF HERALDRY.

As the business of the Office and Court of the Lord Lyon is chiefly of a ministerial nature, and as the cases which come before it as a judicial tribunal are not very numerous, there are no particular Sessions, Rolls, or days of Sederunt. These cases are advised in private by the Lyon-Depute, and his judgments are communicated through the Post-Office to the parties interested, or their agents, by the Lyon-Clerk or his assistant. The Solicitors are the same as those in the Court of Session. At the date of the Report of the Commissioners already referred to (1822), no holidays were observed in the Lyon Office, and the daily hours of attendance were from 10 to 4 and 6 to 8. At present, the office is open to the public every lawful day, except Saturdays and public holidays, between the hours of 12 and 2 ; but some of the officials are usually to be found during the other ordinary hours of business.

The general nature of the duties of the Lyon-Depute, in matters of Heraldry, will be gathered from what has been already stated respecting the jurisdiction of the Lord Lyon, for whom he officiates. Some of these duties,

however, must now be more fully considered, and the subject of our inquiry may be appropriately introduced by the insertion of the principal portion of the deposition made by the gentleman who was appointed to fill the office of *interim* Lyon-Depute in the year 1819 :—

"*Edinburgh, 27th June* 1821.—In presence of the Commissioners, compeared Mr. George Tait, advocate, *interim* Lyon-Depute, who being solemnly sworn and interrogated, depones (*inter alia*), That the whole duty (of the Lord Lyon) has been delegated to the deponent, and is exercised by him ; and that he has not known of any appeal being made from his decision to the Lord Lyon. . . . . Being interrogated in what form the proceedings relative to claims for Armorial Bearings and competitions of such claims are carried on, depones, That such claims are usually made, in the first instance at least, by a verbal application, but that he has seldom disposed of any question of this kind, without some written statement from the parties having intervened ; that parties are in the practice of applying to have their Arms registered, which applications are always stated to the deponent, and determined on by him, and are in no case granted as matter of course by the Clerk of Court ; that since the deponent's appointment, several applications have been made for authority to the applicants to bear Supporters, but such authority has not hitherto been granted by him in any case, none of the parties applying having, in his opinion, established their right to obtain such authority ; that some instances have also occurred, where applications have been made by persons

stating themselves to be heirs-male of families, the senior branches of which had become extinct in the male line, and which claims have been decided on by the deponent; and one case is now depending where competition has occurred respecting the right of bearing the Arms of a particular family. Being interrogated, whether any record of the proceedings in such cases is made and preserved in the office, depones, That there is not, so far as the deponent knows; but when a case is disposed of by the Arms being granted, the grant is entered in the Register of Arms, and the relationship of the party is generally entered shortly in the grant; that the injunction of the Acts of the Scottish Parliament, requiring all persons to register their Arms, has not for many years past been strictly enforced, and there are many cases in which registration has not taken place, both with respect to those old families having right to Arms, and likewise to persons bearing Arms without any authority or legal right; that the Register of Arms is preserved and entire from the year 1672, or nearly that time, and consists partly of the entries of armorial bearings of old families having right at that time, and partly of later grants, which Register will be exhibited for the inspection of the Commissioners. Being interrogated, according to what rules or ordinances cases respecting the grant of Arms or competitions of claims between different parties are determined, and whether there is any record of proceedings or decisions in such matters, depones, That he is not aware of any record of precedents in cases of this nature: that he has not, since his appointment, had

occasion to decide in any formal or regular question of competition, but that the rules according to which he would form his opinion, and which he has observed in so far as he has been called upon to decide on claims presented, are those to be found in the Acts of the Scottish Parliament 1592, cap. 125, and 1672, cap. 21, and the rules laid down by Sir George Mackenzie, Nisbet, and other writers on Heraldry. Being interrogated, if there is any restriction observed with respect to the class or description of persons to whom a grant of arms should be allowed, depones, That such grants are not refused in any case where the persons applying are respectable, which the Deponent understands to be conformable to the practice now observed in all other Colleges of Arms; but with respect to the right of bearing supporters, this, the Deponent conceives competent to be granted in very few cases, and as already observed, has not been allowed in any case hitherto by him, and he will furnish the Commissioners with a statement of what he considers to be the rule applicable to this case. Being interrogated if any instance has occurred since he was in office in which a person has been prosecuted, as liable to fine, for bearing arms unduly, depones, That the Deponent did not find, upon coming into office, that the practice of levying such fines had been followed by his predecessor, or at least not for some years immediately preceding, and as his own appointment is *ad interim*, he has not thought it proper to adopt a different rule.

(Signed) "G. Tait."[1]

[1] Report of the Commissioners on the Office and Court of the Lord Lyon (1822), Appendix No. 3, p. 50.

Speaking generally, there is probably not very much to object to in the preceding statement, but it cannot be denied that, both before and after the year 1819, the practice of the Lyon Office exhibited numerous instances of "heraldic anomalies," to which particular reference will hereafter be made. Various writers have alluded to these official irregularities in pretty strong terms; in some cases, indeed, the strictures appear to have been unnecessarily severe. Thus, within the last twenty years, it has been asserted that "ignorance of aught but the exaction of fees, displayed in a hundred capricious vagaries, is the ruling characteristic of the establishment, not one member of which, from the Lyon to his meanest cub, has ever produced a work or exhibited any skill in the sciences of Heraldry, Genealogy, or the cognate accomplishments!"

Arnot, writing in 1779, makes the following remarks in the course of his notice of the Lyon Office:—"The office of Lord Lyon has, of late, been held as a sinecure, in so much that it has not been thought necessary, that this officer should reside in, or ever visit the nation. The business, therefore, is entirely committed to deputies, who manage it in such a manner, that, in a country where pedigree is the best ascertained of any in the world, the national record of armorial bearings, and memoirs concerning the respective families inserted along with them, are far from being the pure repository of truth. Indeed, there have of late been instances of genealogies enrolled in the books of the Lyon Court, and coats of arms, with supporters and other marks of dis-

tinction, being bestowed in such a manner as to throw a ridicule on the science of Heraldry."[1]

An eminent legal antiquary of our own day has, on more than one occasion, expressed his opinion with respect to the subject in question. In the year 1818, he says, "The extraordinary forbearance and laxity of our practice in matters of arms and pedigree has long been a subject of complaint, and may, to the extent to which it has now arrived, be assuredly deserving of some reprehension. No statutory enactment has succeeded that of Charles II. in the year 1672, which is now nearly obsolete; and hence—independently of other circumstances—the greatest anarchy prevails in all that is connected with the rudest principles of 'Honour.' Without entering more deeply, at present, into a point which I have promised at some future period to discuss, and certainly without intending any particular reflection, I cannot help in general remarking how singularly our policy on this head is contrasted with the stern and rigorous ordinances of other countries."[2] The same learned author, in a later work, refers to the "old and salutary form" of recording Peerage creations in the Lyon's Registers, which, he remarks, "have been so miserably kept and purloined"—being "now in ancient matters a mere blank—deformed, as they besides are, by every incongruity and misrepresentation, at a modern period."[3]

These are, no doubt, very serious charges, but it must be borne in mind that, blameworthy though it unques-

[1] *History of Edinburgh*, p. 493.

[2] Riddell's *Saltfoot Controversy*, p. 121.

[3] *Scottish Peerage and Consistorial Law*, ii. 629-30.

tionably is, the procedure which has called them forth has not been peculiar to Scotland. Whatever may have been the character of the practice at a later period, it would appear that towards the end of the sixteenth century, many very scandalous abuses were perpetrated by the English Heralds;[1] and, during the reigns of Louis XV. and his successor, an open and shameless venality is known to have prevailed in the French College of Arms.[2] In the case of the Lyon Office, however, there has been a very decided tendency, for some time past, to cultivate the rules and principles of that earlier age, to which we are indebted for a system of Scottish Heraldry, whose purity has certainly not been surpassed in any other corner of Christendom.

Deferring for subsequent consideration the question of *heraldic Succession*, as involved in the claims and competitions that may occur before the Lyon Court, and also that of the right to wear *Supporters*, which are both referred to in Mr. Tait's Deposition, it is now proposed to make some observations, under separate sections, on the state of the existing Register of Arms, the mode of differencing Cadets, the practice usually followed in "composing" new coats armorial, the Fees charged for Grants and Matriculations, and the statutory Penalties imposed on the unlawful assumption of heraldic ensigns.

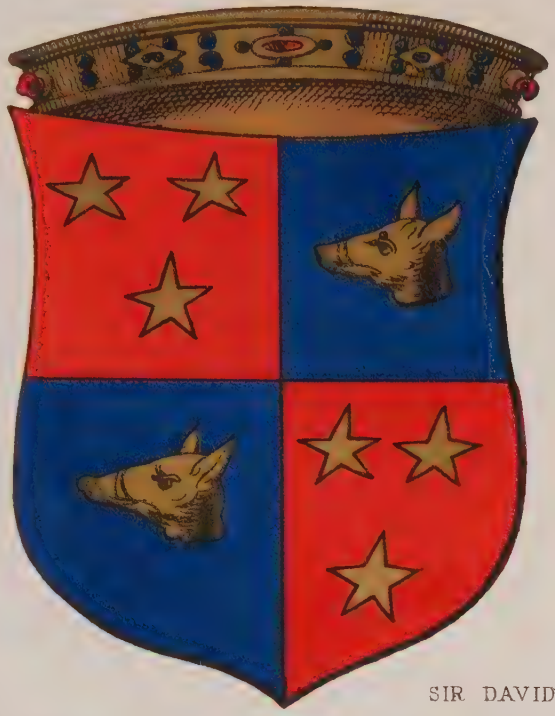
SECTION 1.—EXISTING REGISTER OF ARMS.

The earliest Register of Arms now extant in Scotland

[1] See Appendix to Noble's *History of the College of Arms.*

[2] *Quarterly Review*, xlvi. 315.

Dozdom erle sutherland



Macland of lethyntolloy

SIR DAVID LINDSAY'S REGISTER

Chromo-Lithog. by W. & A.K. Johnston Edinburgh.

is the Book of Blazons executed by Sir David Lindsay of the Mount about the year 1542, and authenticated by the Scottish Privy Council in 1630. The following autograph of the Author accompanies the illumination of his own Arms :—"The Armes of Sir David Lindesay of the Mont, Knytht, alias Lyon King of Armes, autor of the present buke, Anno Domini 1542." As already stated, the original—which is small folio -is preserved in the Advocates' Library, a copy of Mr. Laing's valuable facsimile being deposited among the records of the Lyon Office. This curious manuscript at one time belonged to Sir James Balfour of Denmiln, Lyon King in the reign of Charles I., whose signature is attached to the attestation by the Privy Council. It came into the possession of the Faculty of Advocates, along with the other MS. collections of Sir James, in the year 1698. Besides the heraldic ensigns of many foreign Princes and various members of the Royal family of Scotland, it exhibits, in their proper colours, the armorial bearings of 114 Noblemen and about 320 of the principal families in the kingdom, unaccompanied, however, by any exterior ornaments in the shape of crest, motto, or supporters. With a few exceptions, the illuminations are given without any verbal description of the Arms, the names of the bearers being merely entered over their respective shields, thus :—"Gordoun Erle Sutherland"—"Mateland of Lethyntown."[1] The admirable drawing and brilliant colouring of the manuscript presents a very favourable specimen of the state of the arts in Scotland,

[1] See Plate I.

in the middle of the sixteenth century. While an entire page is usually assigned to the Arms of each of the Kings and Queens of Scotland, in the case of foreign potentates the same space embraces three escutcheons (two and one). The bearings of the nobility are arranged four on every page, the shields of the Earls and higher degrees being surmounted by suitable coronets. The "principal families" are similarly placed, except in the latter portion of the volume, where a smaller shield is introduced in the centre, making five in every page; and occasionally a single coat is illuminated on the *back* of the leaves. Before the Arms of the principal families, three reasons are stated for including the bearings of persons convicted of treason and other serious crimes: viz., 1st, To the honour of their noble predecessors. 2d, To the shame and disgrace of the guilty parties. And 3d, As a warning to others to avoid the like offences.

There is no existing Lyon Register pertaining to the interval between 1542 and 1672. During the first fifty years of that long period, there was no legislative enactment on the subject of armorial bearings, which may perhaps sufficiently account for the absence of a Record: but armed with the distinct and simple provisions of the Statute of 1592, surely the Lyon-King of that period could not have failed to compile an official Register of Blazons. In the "Return" made by the Court of Session to the House of Lords, in 1740, on the subject of subsisting Scottish Peerages, special reference is made to the imperfect state of the ancient national records.

"Not to mention other misfortunes," to use the language of the Report, "it appears, by an examination, to be found amongst the Records of Parliament, 8th January 1661, that of the registers which, having been carried to England during the usurpation of Cromwell, were bringing back from London, after the Restoration, by sea, 85 hogsheads were in a storm shifted out of the frigate, the Eagle, into another vessel, which sunk with those records at sea."[1] It is, of course, by no means impossible that some of the heraldic registers of the days of Queen Mary and her two successors may have found a place among the "85 hogsheads" which thus unfortunately perished in the waters of the German Ocean; but we know for certain, from the report of the case of Murray (24th June 1778), that a portion at least of these same records were indebted to another of the elements for their destruction. In answer to various questions suggested by the Lord Ordinary (Hailes) in that case, it was stated by the Procurator-Fiscal of the Lyon-Court, *inter alia*, that most of the ancient records of Arms were traditionally reported to have been destroyed by fire, but that there were still preserved in the Lyon Office several old manuscript books of Heraldry, which proved of great use in the matriculation of armorial bearings. Arnot thus refers to the traditionary conflagration in question:—"Upwards of a hundred years ago (*i.e.*, cir. 1670), it happened the records of the Lyon Office to be burned; upon which an Act of Parliament was made (1672, c. 21), ordaining all the nobility and gentry

[1] Robertson's *Proceedings relating to the Peerage of Scotland*, p. 220.

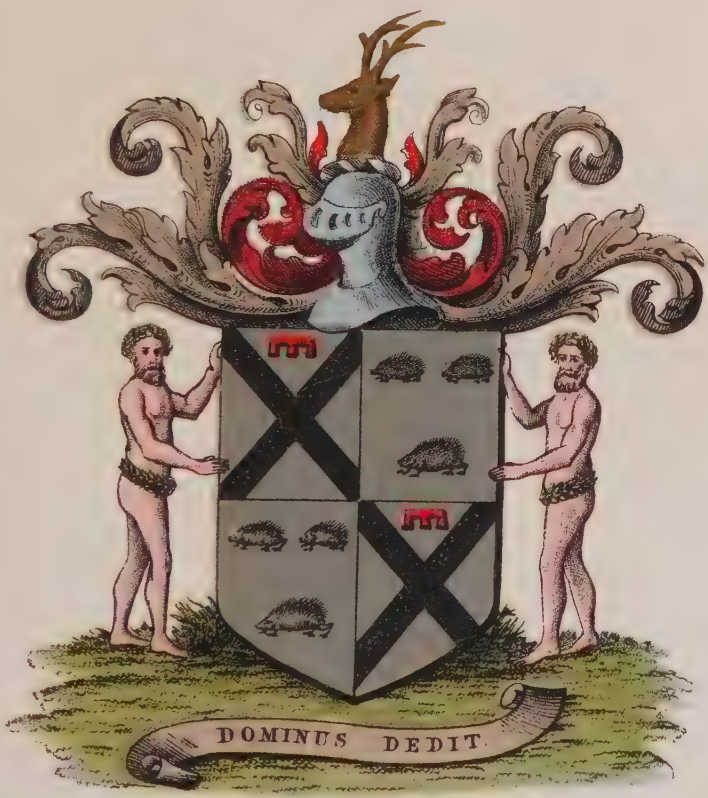
of Scotland to register their armorial bearings in the books of the Lord Lyon, under pain of the confiscation of all plate, carriages, etc., upon which arms not regularly entered should be depicted."[1]

A Parliamentary Return from the Lyon Office in the year 1800 contains several allusions to the state of the Records.[2] Besides the "proper Records" of the Office, which are articulately specified, we are informed that "there are, indeed, said to be other manuscript books and printed treatises upon Heraldry, in the custody of the Lyon-Clerk, who was also Deputy to the late Lord Lyon; but he insists that they are the private property of his former constituent, as having been purchased by him." We are further told that "several of the volumes of the proceedings of the Lyon Court are lost or missing from the office, and, it is believed, are irrecoverable." At the date of the Return, the official Books and Records were deposited in the private house, in St. Andrew Square, of Mr. Boswell, Lyon-Clerk, who had refused the offer of an apartment in the General Register House: and a question was then under submission to the Lord Advocate as to the custody of the Records, for which the Lyon-Clerk and the Lord Lyon respectively contended —the latter maintaining that, according to former practice, he or his Deputy was entitled to such custody.

As a heraldic illustration of the period embraced within the long gap in the Register, already referred to,

[1] *History of Edinburgh*, p. 493.

[2] This Return forms Appendix W. 4, pp. 402-5, of the "*First Report on the Public Records*," ordered to be printed 4th July 1800.



FACSIMILE OF ILLUMINATED ARMS
in
Patent granted to
JOHN, LORD MAXWELL OF HERRIES
IN 1567.

Chrome-lithog. by W. & A. K. Johnston Edinburgh

we may here introduce the Armorial Patent of "Johnne Lord maxwell of hereiss," dated 2d April 1567, as given in the printed evidence on the Herries Peerage Claim, in 1851, from the original at Terregles, which is probably one of the oldest existing Scottish documents of the kind :—

"Twill all and Sindrie quhome it efferis quhais knawlege thir p̃ntis salcum Greting In God evirlesting We Shir Robert Forman of Luthric Knicht Lyoun King of Armes with our brithir herauldis of the realme of Scotland being requirit be the richt honorable Johnne Lord maxwell of hereiss to assigne and gif unto him sic armes In mettaill and culloure as maist deulie suld appertene to him and his posteritie as become us of our office to do Quhairfore we having respect to thais thingis that appertenit hes assignit and assignis to him quarterlie the first and thrid silver ane saulter sable with ane Lambeaw of thre feitt gulis secund and ferde silver thre hurtcheonis sable with the beraris of the scheilde helme Tymmerall and Detouñ as heirunder Is Depaintit[1] quhilk he and his posteritie may lefullie beir without reproche Quhilk We testifie be thir p̃ntis subscrivit be Marchemont hairauld our clerk of office quhairunto oure seile of office is appensit At Edinburgh the Secund Day of Aprill the yeir of God ane thowsand fyve hundreth thre score sevin yeiris.

(Signed) "Adame M'Cullo"
Mr°chemont, hairauld clerk, of ye office of Armes of Scotland."

(*Dorso.*) "Armes of the hous of herreis."

[1] See Plate II.

The Lyon Register is extant from the year 1672 (which is the date of the latest enactment on the subject of heraldic ensigns), and "consists partly of the entries of armorial bearings of old families having right at that time, and partly of later grants." Speaking of this official Record, Nisbet remarks that it "is not so complete as is to be wished;" adding that "many of our most ancient and considerable families have neglected to register their Arms, notwithstanding the Act of Parliament, partly through indolence, and partly through an extravagant opinion of their own greatness, as if the same could never be obscured. So that, were it not for ancient records, books of blazons, charters with seals appended thereto, or other monuments of antiquity, to which I have had recourse with great labour, and some of which I have purchased with great charges, the armorial bearings of sundry considerable families and surnames in Scotland had been entirely lost. However, as the Lyon Office is of late much improven, and better regulated than formerly, it is like to be very useful in time coming; and I have collected the greatest part of my blazons therefrom."[1]

There can be no doubt that Scottish Heraldry is materially indebted to the exertions of Alexander Nisbet. In the prosecution of his favourite study, he contrived to collect, from the various sources already mentioned, the armorial bearings "of most, if not all, of those surnames and families that ever made any considerable figure in Scotland;" and the value of his researches is

[1] *System of Heraldry*, vol. i. Preface, p. v.

very much enhanced by the numerous references which are introduced as the "proper vouchers" of his blazon. Mr. Chambers alludes to the patronage of literature by the Scottish Parliament at the commencement of the eighteenth century, stating, however, that it was "a good deal after the manner of the poor gentleman who bequeathed large ideal sums to his friends, and comforted himself with the reflection that it at least showed good will." He particularly refers to Nisbet's laborious Work on Heraldry, which the Author was unable to publish without assistance. Besides italic types—"whereof there were very few in this kingdom"—the book required a large number of copper-plate engravings; and "accordingly, on Nisbet's petition, the Parliament (3d September 1703) recommended the Treasury to grant him £248, 6s. 8d. sterling, out of what fund they shall think fit."[1] The fund selected appears to have been "the tonnage of foreign ships," but, in the words of the worthy Herald, "that fund not answering their expectations, and being encumbered with prior assignments,"[2] he never got a farthing from that source.

The Lord Lyon's Register consists of six large vellum folios, of which the *first* is very much thicker than the others, embracing as it does a period of 132 years, viz., from 1672 to 1804. The *second* volume extends to 1822, the *third* to 1835, the *fourth* to 1848, and the *fifth* to 1858; while the *sixth* is the current Record.

At the commencement of Vol. i. are separately illumi-

[1] *Domestic Annals of Scotland*, iii. 276.

[2] *System of Heraldry*, vol. i. Preface, p. iv.

nated the official and family bearings of Sir Charles Erskine of Cambo, (Lord) Lyon during the reign of Charles II., followed by a *verbal* blazon of the Arms of the King, Duke of Albany, Archbishops, Bishops, and Nobility of Scotland, numerous blanks being left for those who failed to matriculate in accordance with the Act of "the Merry Monarch." Next in order come the bearings of the Knights Baronet, Knights Bachelor, and Barons, "all sett downe as their sur-names agree with the order of the alphabet, blanks being left for adding the atchievements of those who shall hereafter come in at the end of each letter." Then follow the matriculated "Armes belonging to the Gentlemen within the Kingdome. . . . insert alphabeticallie;" and after these the bearings of Burghs, Colleges, Corporations, Companies, and Offices; while the latter portion of the volume contains a number of "promiscuous matriculations." In a very few instances, the relative arms are illuminated in the margin of the verbal blazon,[1] and, in the earlier part of the Register, a single page not unfrequently embraces entries pertaining to eight different families.

In all the subsequent volumes, the verbal description of the arms is invariably accompanied by a pictorial blazon. In the case of Vol. ii., arms with supporters usually occupy an entire page of the Record, being placed *above* the relative verbal description: while escutcheons without supporters are painted in the *margin* of the blazon, varying in number from two to four

[1] See Plate III. fig. 1.

on each page. In the same volume, neither the supported nor the unsupported shields are timbred with helmets and mantlings, being merely surmounted by the Crest on a wreath of the bearer's liveries. Like certain portions of its predecessor, the whole of Vol. ii. abounds with highly questionable grants of supporters. Some idea of their prevalence may be formed when it is stated that, out of the 284 escutcheons which the volume contains, no fewer than 92—or very nearly *one third* of the whole—are accompanied by these exterior ornaments!

In the four later Volumes (iii.-vi.), an entire page is generally given to each entry, two pages being sometimes occupied, when the blazon extends beyond the ordinary length. The shields are invariably accompanied by suitable helmets and mantlings, not unfrequently surmounted by two, and occasionally by three crests and mottoes. In the case of the Nobility, the mantling is red, lined (or doubled) with ermine, that of Commoners being also red, but with a *white* lining. In a few instances, the mantling consists of the principal colour and metal in the escutcheon, with which the wreath (placed below the crest) is always alternately tinctured. Many of the illuminations in these later volumes are most beautifully executed. The handiwork of Mr. M'Innes, who held the office of herald painter about thirty years ago, could hardly be surpassed—of which the bearings of Dennistoun of Colgrain and Pringle of Whytbank, in Vol. iii., may be mentioned as examples. Both the drawing and colouring of the present herald painter, Mr. Frier, afford ample evidence

of his acknowledged artistic skill;[1] and the admirable engrossing of the descriptive blazonry reflects the highest credit on Mr. Anderson, Marchmont Herald and Lyon Clerk-Depute, who, for many years, has devoted his time and talents to the service of the public in matters of Heraldry.

According to Mr. Tait's Deposition, "the injunction of the Acts of the Scottish Parliament, requiring all persons to register their arms, has not for many years past been strictly enforced, and there are many cases in which registration has not taken place, both with respect to those old families having right to arms, and likewise to persons bearing arms without any authority or legal right." Since the date of that Deposition, it is to be feared that there has been no very great improvement in the matter of registration. Although, doubtless, there is, in one respect, a marked difference between the two classes of persons mentioned by Mr. Tait as failing to comply with the legislative enactments, it must not be forgotten that both are equally required to matriculate their armorial bearings in the Register of the Lord Lyon. In the case of many of the "old families having right to arms" prior to the year 1592, prescription would not unreasonably be pleaded. "I think it very hard," says Nisbet, "that a person cannot by right, *jure antecessorio*, carry the arms which his progenitors used, legally perhaps, the authority and warrant being lost through time; more especially when accounts of them are so indifferently taken and kept by our provincial heralds, and in

[1] See Plate III. fig. 2.

Rait of Hallgreen

(C.1673.)

Lorenzo Archo.

(1858.)

LYON REGISTER.

Chromo Lithog. by W. & A. K. Johnston, Edinburgh

latter times as indifferently preserved."[1] It is extremely probable, moreover, that the bearings of such families were duly recorded in the Register which no longer exists ; and, satisfied with this presumption, they may have long considered it quite unnecessary to condescend to what might really be tantamount to a *second* registration. Perhaps, again, they cannot tolerate the idea of allowing their time-honoured ensigns to occupy a later page in the official Record than those of the man of yesterday, who now dashes proudly past them in his gorgeous equipage, blazoned in every corner with the lately granted symbols of gentility. But whatever may be the cause of the irregularity, it is a matter of fact that the heraldic insignia of a large number of our ancient families are not to be found in the Register of the Lord Lyon, which still continues, in the language of an Act of Parliament, "the true and unrepealable rule of all Arms and Bearings in Scotland." The "Baronage" of Sir Robert Douglas, published about sixty years ago, contains a genealogical account of 252 of the most considerable Scottish families, of whom only 120 (less than one-half) are stated, on the authority of Mr. James Cumming, "Custodier of the Lyon Archives," to possess legal "warrants" for armorial ensigns. Among the names of the unrecorded majority we find numerous families, both of high position and ancient lineage, of whom it is sufficient to mention Blair of Blair, Bruce of Kennet, Cameron of Locheil, Colquhoun of Luss, Dundas of Dundas, Lindsay of Kirkforthar, MacDonnell of Glengarry,

[1] *System of Heraldry*, vol. ii. part iii. p. 58.

Murray of Philiphaugh, Ramsay of Banff, Riddell of Riddell, and Swinton of Swinton. Of these, a considerable number have, no doubt, thought proper to record their Arms since the days of Sir Robert Douglas, but for the Bearings of not a few of them, the official Register will still be consulted in vain.

It would be worse than useless to dwell, for a single moment, on those cases of neglected registration which are supposed to arise from indolence or pride; and surely the mere fact of occupying a lower place in the Record, in point of time, is very far from a sufficient reason for allowing the omission to continue. This accidental circumstance would, of course, have been avoided, if the ancestors of the families in question had complied with the statutory injunction of Charles II., and every day's delay is only making matters worse. But, after all, what does the objection amount to? By the practice of the Lyon Office, the pedigrees of all persons whose Arms are recorded are therewith briefly entered in the Register, which may thus be made to bear witness to the reddest blood in Scotland.

As to the other class of persons noticed by the Lyon Depute as being guilty of a similar omission to matriculate viz., those who use armorial bearings "without any authority or legal right,"—there certainly does not appear to be the slightest shadow of an excuse for the course which they unscrupulously pursue. It has already been admitted that, looking merely to the Acts of Parliament, *both* classes are equally bound to comply with their clear and authoritative provisions: but taking into

account the various considerations which not very unreasonably seem to influence the families of ancient blood, it may be pretty safely asserted that there is, comparatively speaking, a much greater obligation, on the part of the gentlemen of yesterday, to record their armorial bearings. It is not their lot to inherit an ancient escutcheon, whose charges have proudly waved on the field of battle, and may still be traced on the mouldering walls of some venerable stronghold. They may be genuine Howards or Douglases in disguise, but of this there is, unfortunately, no evidence ; and whatever may be the fame, the wealth, or the influence which they possess, their pedigree must remain involved in mystery, and even their grandfathers will frequently be searched for in vain. It is one thing to inherit—another to *assume ;* and, moreover, let it be remembered that there is no necessity for the assumption. If they *must* become the wearers of heraldic ensigns—and the desire appears to be both natural and proper—let them render themselves entitled to the privilege, according to the only legal mode. Instead of being ashamed, let them rather entertain an honest pride in being the first to bear the coveted distinctions, keeping in mind that the noblest families in the Kingdom must look back to a period in their history when they were raised above the level of the masses, through the genius or the industry of a worthy ancestor. Surely it is a far higher distinction thus to become the Founder of an honourable family, than to be a mere passive and accidental link in the most ancient and illustrious lineage !

In addition to the Register of Arms, a somewhat meagre Register of *Genealogies* is to be found among the Records of the Lyon Office. Two folio volumes contain a number of Pedigrees and Birth-Brieves, of which the former extends from 1727 to 1796, and the latter from 1827 to 1860. There is also a third folio volume (not authenticated), which is entitled "MS. Genealogies," besides several other small collections of Birth-Brieves. It is certainly very much to be deplored that the Register of Genealogies is not of a more comprehensive character, as the importance of a well-authenticated record of pedigree cannot be questioned. In referring to this Record, Professor Lorimer remarks :—"To what extent the Register of Genealogies in the Lyon Office may be admitted as a probative document conclusive of the facts which it sets forth, has not been ascertained by actual decision ; but there can be no doubt that, in questions both as to property and honours, it would be regarded as a most important adminicle of proof. The genealogical department of the Heralds' College in London is a very important one, and it is to be regretted that the uses of the corresponding department of the Lyon Office are so little understood and appreciated by the public."[1] In terms of a standing order of the House of Lords, dated 11th May 1767, the pedigrees of the Nobility required to be recorded in the Books of the English College of Arms, after having been proved at the Bar of the House. Unfortunately, this order was rescinded by Lord Thurlow, in 1802, with the intention of proposing a new one,

[1] *Handbook of the Law of Scotland*, 2d Edition, p. 446.

which, however, was never accomplished; and accordingly, many Noblemen are unable to exhibit any pedigrees except those which are published in the fleeting "Peerages" of the day. The recording of Genealogies, however, appears to have long held a prominent place among the duties of the English Heralds. The evidence usually produced in corroboration of pedigree is, of course, documentary — consisting of deeds, inquisitions *post mortem*, funeral certificates, testamentary bequests, and extracts from parochial registers. According to Mr. Dallaway, "the indispensable practice of the College of Arms enjoins, that whenever a pedigree, hitherto unentered or to be compiled, is offered for their sanction, the herald retained for that purpose is obliged to submit it to the whole society in chapter, and all objections must be resolved before it is inserted in the public register, and duly confirmed."[1]

Besides a more general registration of Arms, it is very desirable that the Lord Lyon's Register of Genealogies should be much more extensively used than heretofore. If framed upon proper principles, the value and importance of such a record can hardly be over-estimated. First and foremost, it ought to embrace the Scottish Peerage, in whose historical associations all ranks and conditions of men cannot fail to feel some interest.[2] Baronets, Knights, and Squires ought also to occupy its pages. In many

[1] *Inquiries into the Origin and Progress of the Science of Heraldry in England*, p. 361.

[2] In alluding to the Douglases as the most illustrious family in Scotland, Mr. Hannay quaintly remarks that "even a Glasgow radical warms at the name"!—(*Essays from the Quarterly Review*, p. 41.)

instances, indeed, the Commoner can show redder blood than the Peer, and we are sometimes apt to forget that numbers of our untitled aristocracy are strictly *Noble* in the old and proper sense of that term.[1] Lastly, the wealth and intelligence of our own day, although not combined with ancient lineage, should unquestionably hold a place among the entries in the Register, as at least two or three generations can generally be authenticated.

Unfortunately, the deficiency in question is not even partially supplied by County Histories, of which England has produced so many admirable specimens. We can boast, however, of several excellent Family Histories, embracing a large amount of genealogical detail. Among others, we may specify Hume of Godscroft's well-known "History of the House of Douglas and Angus" (1644); Bishop Burnet's "Memoirs of the Dukes of Hamilton" (1677); the three Genealogical Histories of the Stewarts, by Crawfurd (1710 and 1782), Duncan Stewart (1739), and Andrew Stuart (1798); Sir Walter Scott's "Memorie of the Somervilles," 2 vols. (1815); Sir Richard Maitland's "Cronicle of the Hous of Seytoun" (1829); Lord Strathallan's "Genealogie of the most noble and ancient House of Drummond" (1831); and Lord Lindsay's "Lives of the Lindsays," 3 vols. (1849), of which it has been truly said that "it appears to unite, more happily than any other performance, the old sentiment of past days with

[1] "Every British gentleman entitled to bear coat-armour, is noble, whether titled or not. It is only in comparatively recent times that this has been forgotten, and the term 'Nobility' exclusively appropriated to the Peerage."—(Lord Lindsay's *Lives of the Lindsays*, i. 227, *note*.)

See also *The Nobility of the British Gentry*, by Sir James Laurence.

the knowledge and clearness of the time in which we live—the heart of the fifteenth century with the eyes of the nineteenth."[1] Probably one of the most valuable modern contributions to the subject of Genealogy and Heraldry combined is Mr. Henry Drummond's splendid folio "History of Noble British Families" (1844-9), of which only eight parts were published, embracing the Scottish Houses of Bruce, Dunbar, Hume, Dundas, and Drummond, besides seven or eight English historical families. It was suggested by Count Litta's sumptuous book on Italian families, and is profusely illustrated by facsimiles of Seals, engravings of Monuments, interesting Portraits, and gorgeous Heraldry. As two still more recent productions of a similar kind, we may mention the beautiful works privately printed by Mr. Stirling of Keir and the lamented Lord Eglinton—"The Stirlings of Keir and their Family Papers" (1858), and the "Memorials of the Montgomeries," 2 vols. (1859)—both edited by Mr. William Fraser of the General Register House, whose remarkable familiarity with all matters connected with peerage and pedigree is now so well known, and who, we are glad to understand, is at present engaged in the preparation of a similar work relative to the ancient family of Maxwell.

SECTION II.—MODE OF DIFFERENCING CADETS.

One of the principal heraldic duties of the Lord Lyon, or his Deputy, is to assign suitable marks of difference to the Cadets, or younger branches, of families having a

[1] Hannay's *Essays from the Quarterly Review*, p. 75.

right to Armorial Bearings. Like the rescinded Act of 1662, the later Statute of 1672 makes special reference to the fact of many of the lieges who were entitled to bear Arms having unlawfully assumed, "without distinctions," the ensigns of the Heads of their families; and for the purpose of enabling the Lyon to distinguish the bearings of such persons with "congruent differences," special provision is made for the transmission of authenticated certificates of their descent.

Besides an elaborate chapter in his larger work, the laborious Nisbet has produced a separate treatise on the subject under consideration, entitled "An Essay on Additional Figures and Marks of Cadency, showing the ancient and modern practice of differencing Descendants, in this and other Nations." Towards the commencement of the volume, he introduces the following advice of the learned Camden, Clarenceux King-of-Arms in England:—"No Gentleman ought to bear the differences in Armories otherwise than the office of Armorie requireth, and when younger brethren do marry, erect and establish new Houses, and accordingly do bear their Arms with such a distinction and difference that they might be known from the families from which they are descended, the King-of-Arms ought to be consulted withal, and such differences of Houses are to be assigned and established by his privity and consent, that so he may advise them best and keep record thereof; otherwise Gentlemen, by taking unfit Brisures,[1] may either prejudge themselves or

[1] The French term for marks of Cadency, from their *breaking* the principal Arms of the family.

ARMORIAL BEARINGS
OF THE VARIOUS BRANCHES of the HOUSE OF LINDSAY.

1 Original Arms (c 1200)
2 Substitution of Fess checquy (c.1297)
3. Ultimate Arms–Earls of Crawford.–(1398.)
4 Dukedom of Montrose.–(1488.)

5 Cavill
6 Rossie
7 Byres
8 Covington
9 Wauchopdale
10 Dunrod
11 Bonhill
12 Broadland
13 Pitscandine
14 Barnyards
15 Edzell
16 Balcarres
17 Dowhill
15 {Pyctstone & Wormestone}
19 Kirkforthar
20 Mount
21 Blacksolne
22 Linbank
23 Crossbasket
24 Spynie
25 Evelick
26 Cairn
27 Culsh
28 Garnock
29 Eaglescairnie

Chromo lithog. by W. & A. K. Johnston Edinburgh

the principal Houses they are come of." "This advice," adds Nisbet, "is congruous to our law, and consonant to the principles of prudence and reason; and I wish from my heart that our gentry may take more heed to this than hitherto they have done, and may apply to the Lyon Office for suitable differences, and not assume them at their own hand, or by the advice of some presumptuous sciolist, whereby oftentimes their posterity suffer prejudice."[1]

Of the numerous modes which have been adopted for distinguishing Cadets, when they "erect and establish new Houses," the most common, and probably the most satisfactory, is the assumption of conspicuous and *permanent* additional figures.[2] These, however, must not be confounded with the minute and temporary marks of Cadency—label, crescent, mullet, etc.,—termed "*differentiæ consanguineorum*," which are usually assumed by a man's sons, during his lifetime, in order to indicate their respective degrees of birth.[3] The use of the latter,

[1] *Essay on Marks of Cadency*, p. 15.

[2] See Plate IV.

[3] Most of the old writers on Heraldry have assigned a figurative import to these differences of consanguinity. According to Mackenzie, the *eldest* son carries a *Label* of three points, in the lifetime of his father, "to signify that he is but the third person, his father being one, his mother another, and himself the third."

> "Ou un label dasure avoit,
> Porce q'ces peres vivoit."
> —(*Siege of Caerlaverock.*)

The *second* has a *Crescent*, to show that he should increase the family, by adding to its estate and repute, the crescent being, in the words of Camden, "the double blessing, which giveth future hope of increase." The *third* son carries a *Mullet*, or spur-rowel, "to incite him to chivalry." The *fourth*, a *Martlet*, represented without feet, "to signify that as that bird seldom lights on the land, so younger brothers have little land to rest upon, but the wings of their own endeavours." The *fifth*, an *Annulet*, or ring, to encourage him "to achieve great actions, the badge whereof was, in old times, *jus aureorum annulorum*." The *sixth*, a

as perpetual and hereditary figures, although occasional among some of the most eminent families both in England and Scotland, has been very justly censured by various heraldic authorities, including Dugdale, Spelman, Mackenzie, and Nisbet. Dugdale considers that these minute differences do not show the time of the descent; "neither can it be known," he says, "which of the crescent-bearers was the uncle or nephew. And further it is a very usual matter for every new riser at this day, if he can find that there is any of the like surname that

Fleur-de-lis, "to put him in mind of his Country and Prince." The *seventh*, a *Rose*, to make him "endeavour to flourish like that excellent flower." The *eighth*, a *Cross-Moline*, or anchoring Cross, to remind him "to grip when he can fasten, seeing he has nothing else to which he may trust." The *ninth*, a *double Quatrefoil*, "to express that he is removed from the succession by eight degrees."

Both Heralds and Lawyers agree in the opinion that, except in the case of the Royal family, *daughters* should not carry any marks of differ-

ence, the reason being, according to Sir George Mackenzie, that as they succeed equally, and are heirs-portioners, such marks are not required. It is usual, however, for women to bear the differences which pertain to their fathers. Only the Label is used as a mark of distinction by the members of the Royal family, being carried by both sons and daughters, varied by additional pendants and charges, except in the case of the Prince of Wales, who bears the label plain. The theory of this practice is that none of the children of the blood-royal are entitled to Arms by *descent*, the bearings of the Sovereign being those of the State.

beareth mark, presently to usurp the same with a crescent or some such difference, so that (for my own part) I do seldom credit such kind of differings or their bearers, unless it be by some other testimony, or proof made manifest, which cannot be counterfeited so well in the other device, except the riser should be thoroughly acquainted with the descent of him whose line he seeketh to intrude himself into."[1] In like manner, Mackenzie urges various objections against the use of the figures in question as permanent marks of difference, particularly in the case of certain Arms in which crescents and fleur-de-lis constitute the proper charges; and he condemns the practice as having confounded all the ancient Coats and filled our escutcheons "with more crescents and mullets than are in the Arms of all Europe besides."[2]

The irregularities arising from a disregard of the distinct objects of "Marks of Cadency" and "Differences" have, to some extent, disfigured the heraldic practice of Scotland, but they have been much more prevalent in other countries, and particularly in France. At the present day, as of old, the *label* is to be seen on the escutcheons of all the members of the House of Orleans, while the distinctive mark of the family of Anjou was a plain red *bordure*, which the Alençon branch charged with eight bezants, by way of further difference. Both in England[3] and Scotland, some substantial alteration is almost inva-

[1] *Usage of Arms*, Banks' Edition, p. 15.

[2] *Science of Heraldry*, chap. xxi.

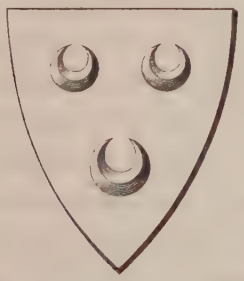
[3] For some curious examples of English Differences, see Dallaway's *Heraldry in England*, pp. 129 and 379; also Lower's *Curiosities of Heraldry*, Appendix A.

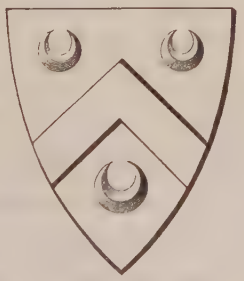
riably made by Cadets upon the escutcheon carried by the head of the family; but the principles upon which even the most learned Heralds have acted have been so very variable, that Sir George Mackenzie comes to the conclusion that, with the sanction of the proper authorities, every person ought to be allowed "to take what mark of distinction can best suit with the Coat which his Chief bears." When armorial bearings first became hereditary, the differences adopted were more definite and distinct than at a later period; and if some more decided system had been followed, in the differencing of Arms, during the development of the science of Heraldry, it would unquestionably have proved an invaluable handmaid in the pursuit of genealogical and historical investigations. Even as it is, however, armorial ensigns have been of no little service in such researches, and we have already referred, in the introductory chapter, to some striking examples of their utility in matters of pedigree.

Heraldic charges are generally divided into two grand classes, viz., *proper* and *natural*—the former including what are termed "Ordinaries" (pale, fess, bend, chief, chevron, etc.), and also "Sub-ordinaries" (bordure, tressure, canton, etc.); while the latter comprehends all animate and inanimate objects, which are described by appropriate terms expressive of the manner in which they are represented, as well as of the position which they occupy in the shield. "All these figures," says Nisbet, "whether proper or natural, are sometimes carried as *principal*, and sometimes as *additional*. By principal figures, we understand those hereditary fixed

marks carried by the chiefs of families (which serve to distinguish chief families from one another), and are transmitted to all the descendants. By additional figures, we understand those, whether proper or natural, which cadets add, as marks of cadency and differences, to the principal, hereditary, fixed figures of the family, that they may be distinguished from the Chief and from one another, which are called *differentiæ extraneorum*."[1] Besides being marks of distinction, these differences frequently accomplish a secondary object, by commemorating some honourable action, employment, or alliance, of which many instances occur in Scottish Heraldry.

A very common mode of differencing cadets is by *adding*, to the paternal Arms of the family, *one of the Ordinaries or Sub-ordinaries* already referred to, particularly the Chevron or the Bordure—of which numerous





examples will be found in the Lyon Register.[2] Thus, Oliphant of Bachilton placed a *chevron* between the

[1] *System of Heraldry*, vol. ii. part iii. p. 17.

[2] Both the Bordure and the Chevron are occasionally carried as *principal* figures by the Chiefs of families, as in the case of the old Earls of March, and the noble Heads of the existing Houses of Maule, Kennedy, and Elphinstone.

three crescents carried by Lord Oliphant as head of the family, while Dundas of Arniston surrounds the lion

rampant of his chief, Dundas of that Ilk, with an ermine *bordure*. In like manner, the Earl of Aboyne, a younger son of George second Marquis of Huntly, carried a chevron in addition to the paternal arms of Gordon (three boars' heads)—his motto being "*Stant cætera tigno*," in allusion to the chevron, or *tignum* (which most Heralds regard as representing the couplings or rafters of a building), and "to show his descent from an established House." Again, the Lundins of Auchtermairnie, descended from the Lundins of that Ilk, bear the old arms of Lundin, viz., paly of six, argent and gules, on a bend, azure, three cushions, or, all within a bordure, indented, of the third.[1] When the chevron and bordure, besides being formed by *plain* lines, are of the *tincture of the principal figure* in the field and *uncharged* with other

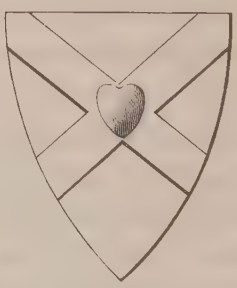
[1] The same arms, with the exception of the bordure, were carried by the Lundins of that Ilk till the year 1679, when the following Coat was specially granted to them by King Charles II., in commemoration of their descent from William the Lion:—Or, a lion rampant gules, within the royal tressure, flory and counter flory of the last, all within a bordure, gobonated, azure and argent.—(For the Royal Grant authorizing the change in question, see Nisbet's *System of Heraldry*, i. 64.)

devices, they are supposed to indicate that the bearer either is, or represents, an immediate younger son of the principal family; but if these charges are formed by *crooked* lines (engrailed, invected, indented, or embattled), descent from the third or fourth son is presumed to be implied. In other words, the greater the variation of the chevron and bordure by means of these accidental forms, by being charged with other figures, or by being gobonated (componé), or divided by the partition lines (parted per pale, fess, bend, etc.), the further are the bearers usually supposed to be removed from the principal House. To use the language of the Author of *Jurisprudentia Heroica*, "Tertio genitui filius primus paternum retinet limbum; secundus limbum præferet dentatum—*à la bordure édentée;* tertius besantiis nummis insignitum—*à la bordure chargée de besans;* quartus sectionibus diversi coloris distinctum—*à la bordure componée*, et ita de cæteris."

The *Label* (or Lambel), already referred to as a temporary mark of cadency, appears to have been sometimes carried as a hereditary difference, of which Nisbet mentions three examples, viz., Hamilton, Earl of Abercorn, Arbuthnot of Findowrie, and a younger branch of the House of Nithsdale. According to Dallaway, the *Ribbon* is a difference of very high antiquity, while the Baton (with which it is sometimes confounded) is of much later introduction. The former extends diagonally across the entire shield, from the dexter chief to the sinister base, while the latter is couped at both extremities, and is generally, although not invariably, borne *sinister*— *i.e.*,

extending from the sinister chief to the dexter base—as a mark of "incomplete agnation." A well-known example of the Ribbon is to be found in the old arms of Abernethy, as quartered by several distinguished Scottish families, where it surmounts or bruises a rampant lion. The *Bend*, or its diminutive the Bendlet, appears to have been similarly used by Henry of Lancaster, second son of Henry III., on whose seal the three lions of England are debruised by that figure; and Mr. Montagu engraves an interesting example (a fleur-de-lis surmounted by a bendlet) from one of the ancient tiles in the Abbaye aux Hommes at Caen.[1]

Where one of the Ordinaires is carried by the principal family, the younger branches not unfrequently charge it with stars, animals' heads, leaves, and other figures.



Thus Maxwell of Teyling bore "*a man's heart*" on the paternal saltire of his family,[2] while Dennistoun of

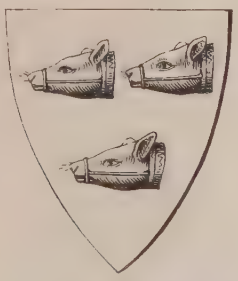
[1] Another mode of differencing, termed "Gerattyng," appears to have anciently prevailed in England. It consisted in *powdering* the escutcheon with stars, crosses, and other small charges, of which nine different kinds are enumerated in the "Boke of St. Albans."—(See Planché's *Pursuivant of Arms*, p. 145.)

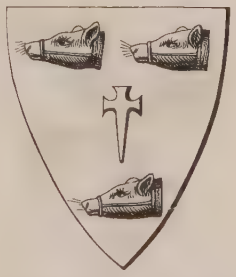
[2] The Saltire is also the bearing of the Irish Fitzgeralds and of the English Nevilles.

"Upon his surcoat valiant Neville bore
A silver Saltire upon martial red."
—(Drayton's *Barons' War*, i. 22.)

Mountjohn, besides altering the tincture of the bend carried by Dennistoun of that Ilk, charged it with *three cross-crosslets.*

When the bearings consist of "natural" figures, a third mode of distinction is to place, in the centre of the shield, a figure different from the other charges. Accordingly, in addition to the three bears' heads of his noble Chieftain, a *cross pattée*, fitched, is carried by





Forbes of Craigievar ; and, in like manner, Borthwick of Crookston formerly bore a *raven's head* in the centre of the three cinquefoils, which constitute the paternal ensigns of the name.[1]

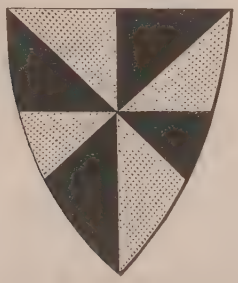
Besides the assumption of *additional figures*, the following modes of distinguishing Cadets are adopted in Scottish Heraldry, but some of them, it must be acknowledged, have not met with the approbation of either Nisbet or Mackenzie :—

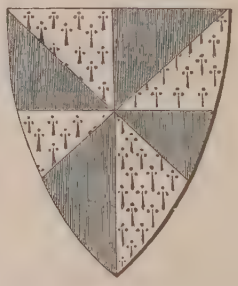
1. By changing the tinctures of the field or of the principal charges.

[1] The raven's head is on the authority of Pont and Workman, and forms a much more satisfactory difference than the crescent which is given in the Lyon Register. The family of Crookston claims the ancient Barony of Borthwick as well as the Chieftainship, and accordingly its present bearings are simply argent, three cinquefoils sable.

2. By giving accidental forms to the principal figures.
3. By altering their position, and occasionally their number.
4. By quartering other arms with the paternal bearings.

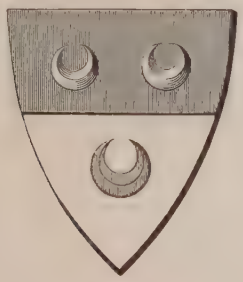
1. By *changing the tinctures* of the field or of the principal charges. Thus, the Earl of Loudon converted the *or* and *sable* gyrons of Macallum More (the Duke of

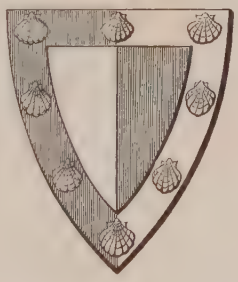




Argyll) into *ermine* and *gules*—the first of his family, in the reign of Robert the Bruce, having married Susanna Crawfurd, heiress of Loudon, whose bearings were *gules* a fess *ermine*. In like manner, the family of Home place the white lion rampant of the old Earls of March, from whom they are descended, on a *green* instead of a *red* field. As examples of change of tincture in the case of the principal charges, two instances may be cited. The paternal arms of the House of Hamilton are gules, three cinquefoils *ermine*, while several branches of the family make the cinquefoils *argent*. Again, the original bearings of the surname of Shaw are azure, three covered cups *or*, which Shaw of Sornbeg alters to *argent*, besides placing three mullets in fess. Another mode of altering

the tinctures, termed *counterchanging* (or countercharging), is usually adopted where the branch is far removed from the main stem, as in the case of a cadet of a cadet. It consists in dividing the field of the principal family, when one of tincture, into two—the charge or charges being counterchanged, so that metal may not rest upon metal, nor colour upon colour.[1] Accordingly, Laurence Oliphant, Writer to the Signet, descended from a second son of Oliphant of Gask (a cadet of Lord Oliphant), carried party per fess, gules and argent, three crescents counterchanged—the two crescents in the upper half of the shield being *white* on a red field, and the single crescent



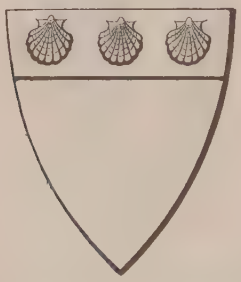


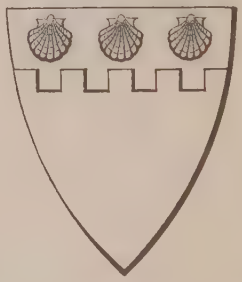
in the lower half being *red* on a white field; while the principal arms of the surname, as already mentioned, are three white crescents on a field entirely red. Like chevrons and bordures, however, counterchanged bear-

[1] A violation of this well-known heraldic rule occurs in the insignia of the kingdom of Jerusalem, established by the Crusaders, which are *argent*, a cross potent between four plain crosslets, *or*. The crosses are supposed to symbolize the five wounds of our Saviour, and the peculiarity of the blazon is said to bear allusion to Ps. lxviii. 13. The Arms of the Spanish Inquisition—*sable*, a cross, *vert*—afford another example. Such bearings are termed "armes pour enquérir," being intended to excite inquiry into the cause which prompted a deviation from ordinary practice.

ings do not necessarily indicate cadency. Thus, the Earl of Panmure, Chief of the family of Maule, carried party per pale, argent and gules, on a bordure eight escallops, all counterchanged ; and, in like manner, the arms of Lord Nairne were party per pale, sable and argent, a chaplet charged with four quatrefoils, similarly counterchanged.[1]

2. A second mode of distinguishing cadets is by giving *accidental forms* to the principal charges, either—(1.) by means of the various *partition lines*, in the case of the ordinaries and subordinaries ; or (2.) by what is termed *couping*, *erasing*, etc., in the case of "natural" figures. Thus, Graham of Meiklewood carries the paternal arms





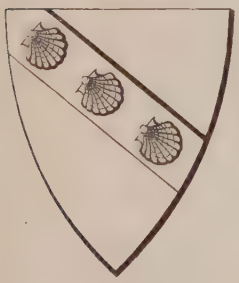
of Montrose, but makes the chief *embattled* instead of plain ; while Elliot of Stobs *engrails* the plain bend which forms the bearing of the principal family of the name. Where natural figures—such as the heads or limbs of animals—are carried as armorial ensigns, their forms are sometimes altered and modified by the cadets, by means of couping or erasing, *i.e.*, cutting off in a

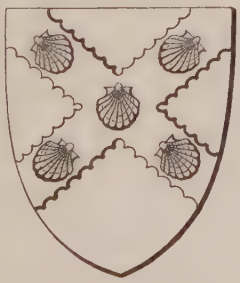
[1] The bearings of the poet Chaucer were party per pale, argent and gules a bend counterchanged.

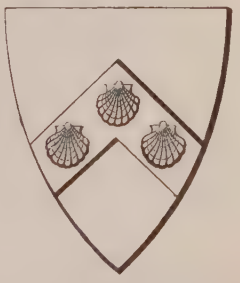
straight line, or tearing away so as to leave a jagged edge.[1] Accordingly, it appears from Pont's MS. that Porteous of Halkshaw carried azure, three stags' heads,

couped, argent, attired with ten tynes, or; while the arms of George Porteous of Craiglockart, "one of his Majesty's Herald Painters," are thus blazoned in the Lyon Register:—On the same field (azure), a thistle between three bucks' heads, *erased*, or.[2]

3. Cadets are also distinguished by *altering the posi-*





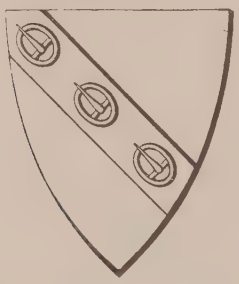


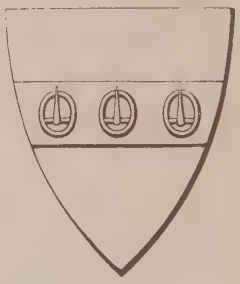
tion (and occasionally the number) *of the charges* borne

[1] The term "couped" is occasionally applied to the fess, saltire, and other *proper* heraldic figures, when their extremities do not extend to the sides of the shield; but such charges, at least in English Heraldry, are usually said to be "humetty."

[2] In the illustrative cuts, the stags' heads are erroneously represented contourné, *i.e.*, turned to the sinister instead of the dexter.

in the paternal arms. Thus, the escallops, or shells, which constitute the bearings of the House of Pringle, are carried by one branch of the family on a *bend* (Torsonce), by another on a *saltire* (Whytbank), and by a third on a *chevron* (Haining).[1] Again, the Scotts of Bevelaw and the Leslies of Balquhain converted the bend





carried by their respective Chiefs into a *fess*, without any other addition or alteration, charging the fess with the figures which occupy the bend in the principal arms. Numerous systematic illustrations of this mode of differencing, including the families of Clifford and Cobham, are furnished by writers on English Heraldry. The practice of altering the *number* of the charges, either by

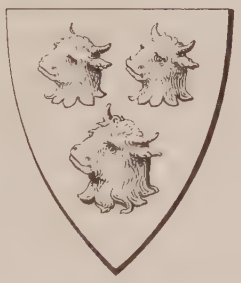
[1] While the Pringles of Whytbank bear five *gold* escallops on a *black* saltire, the family of Torwoodlee carry the same number of *silver* escallops on a *blue* saltire—the latter charge being engrailed in both cases. The Pringles of Stitchel, on the other hand, do not use any of the ordinaries—their bearings being simply azure, three escallops, or.

The escallop shell is the well-known badge of a pilgrim, from which word the surname of Pringle has been fancifully derived.

> "Give me my *scallop-shell* of quiet;
> My *staff* of faith to walk upon;
> My *scrip* of joy, immortal diet;
> My *bottle* of salvation;
> My *gown* of glory (hope's true gage);
> And thus I'll make my pilgrimage."
> —*Sir Walter Raleigh.*

Towards the middle of the thirteenth century, Pope Alexander IV. prohibited all but pilgrims who were truly noble from assuming escallop shells as armorial ensigns.

way of diminution or increase, prevails to some extent among the French and other continental nations, but is of very rare occurrence in Scottish Heraldry. In his *Jurisprudentia Heroica*, Christyn mentions the bearings of the House of Clermont Tallart, in Dauphiny, viz., two silver keys, in saltire, on a red field, adding that the family of Chatto, as a cadet, carried only *a single key*, in bend. On the other hand, according to Pont, the Scottish family of Sydserf, originally from France, carried argent, a fleur-de-lis, azure; while Sydserf of Ruchlaw appears, from the Lyon Register, to bear *three* of these charges on a similar field. In like manner, the ancient arms of the Turnbulls of Bedrule, and also of Minto,



consisted of a single bull's head, erased, sable; but "of late," to use the language of Nisbet, "those of this name multiply the heads to *three*."

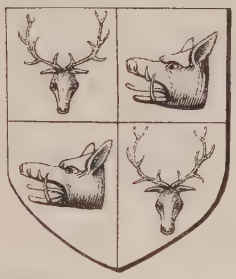
4. A fourth mode of distinguishing cadets is by *quartering other arms* with the paternal bearings. This course, although questioned by some heraldic writers on the ground that the principal coat is not bruised, but repeated entire as borne by the head of the family, is admitted by both Nisbet and Mackenzie. The former

acknowledges that it is in accordance with the heraldic practice of Scotland and other nations, being "looked upon as a sufficient and regular brisure in the best of our families, and especially by second sons." He adds, however, that "a second brother, though he differences himself by quartering another coat with his paternal, yet he must always continue his father's brisure, he being a younger son of a principal family;" and that "the clearest way to make known the descents of families by arms, is for them to retain the congruent differences of their progenitors, although they quarter with the coats of other families as their own particular difference."[1] Sir George Mackenzie appears to vindicate the practice in question without any qualification. "Those cadets," he says, "who have their arms quartered with other arms *need no difference* (*i.e.*, no ordinary mark of cadency), for the quartering or impaling is a sufficient difference."[2]

Sir John Fern classifies quartered arms under three heads, viz., plain quartered, quartered, and quarterly-quartered coats. (1.) A *plain quartered coat* is produced by dividing the field into four parts, one coat-of-arms being repeated in the first and fourth quarters, and another in the second and third. This is the proper arrangement of the armorial ensigns of the son of a gentleman by an heiress (in the heraldic sense)—his father's arms occupying the principal position, viz., the first and fourth quarters, and his mother's the second

[1] *System of Heraldry*, vol. ii. part iii. pp. 21, 22.
[2] *Science of Heraldry*, chap. xxi.

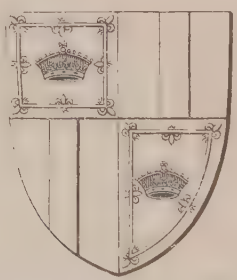
and third. Thus, Mackenzie of Coul charges the first and fourth quarters of his escutcheon with the "Caberfae," or stag's head, which forms the paternal bearing of his clan; the second and third quarters being occupied by



a boar's head for Chisholm of Comar, the heiress of which family married the first of the Coul branch. In like manner, the Earl of Mansfield places the principal coat of Murray (three stars within a double tressure) in the first and fourth quarters, while the second and third are charged with three crosses, pattée, in consequence of the marriage of his ancestor, Sir Andrew Murray, to the daughter and heiress of Barclay of Balvaird, towards the beginning of the sixteenth century. Another course, to which Sir George Mackenzie objects, is followed by some cadets who are advanced to dignities, and who, "if they be not obliged to quarter the coat of some heretrix, for a difference take crest or supporters of the family out of which they are descended, and quarter with their paternal coat. As the Viscount of Kingston bears, first and fourth, the arms of Seton (three crescents within a double tressure), in the second and third, argent, a winged dragon, vert, vomiting fire, which dragon is the crest of his elder

brother, the Earl of Winton."[1] In some cases, however, the paternal arms do not occupy the principal quarters of

the shield. Thus, both in England and Scotland, the precedency is given to *arms of special concession*, which usually embrace some portion of the Royal ensigns.[2]



The escutcheons of Erskine, Earl of Kellie, Hay, Earl of Kinnoull, and Sandilands, Lord Torphichen, may be men-

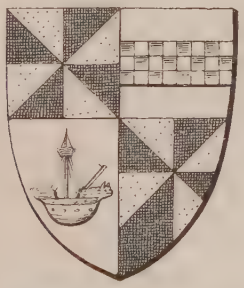
[1] *Science of Heraldry*, chap. xxiv.

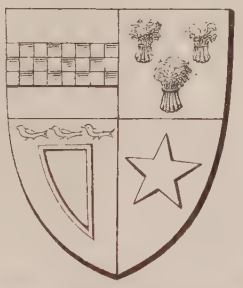
[2] Another mode of marshalling is to place the "additament of honour" on an inescutcheon or surtout, as in the achievement of the Setons, Earls of Winton, where a coat of special concession—a sword supporting an imperial crown—is impaled with an ordinary coat of augmentation, viz. a star of twelve points for the title of Winton. By means of this arrangement, the position of the paternal arms is undisturbed; but, on the other hand, an inescutcheon usually conceals some of the charges in the principal shield.

A somewhat unusual arrangement occurs on the seal of James Sandilands, Lord Torphichen (1603), afterwards referred to, where a coat of

tioned as illustrations of such postponement of the paternal bearings.[1] Occasionally, moreover, the *maternal* arms are placed before the father's bearings, in consequence of their "more eminent nobility," as in the case of the Montgomeries of Lainshaw, afterwards referred to as an illustration of a quarterly-quartered coat.

(2.) The term *quartered coat* is applied to a shield in which the arms of more than two different families are marshalled together. Thus, the Marquis of Breadalbane carried *three* coats quarterly, viz., first and fourth, the paternal arms of Campbell (gyronny of eight); second,





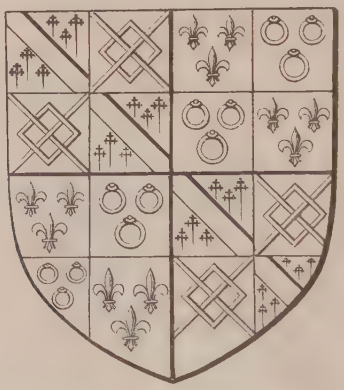
a fess checquy for Stewart; and third, a lymphad (or galley) for Lorn. Sometimes *four* coats are carried, each of the quarters being differently charged, as in the escutcheon of Stuart, Earl of Traquair, which is thus blazoned:—First, the paternal arms of Stuart; second, three garbs (wheat sheaves) for Buchan; third, an orle,

augmentation is *impaled* with the family arms, being placed in the sinister side of the escutcheon.—Laing's *Catalogue of Scottish Seals*, No. 718.

[1] This arrangement, however, is not invariably followed. Thus, on the drawing-room ceiling at Kellie Castle, Fifeshire, we find the paternal arms of Erskine in the *first and fourth* quarters of the coat of Alexander third Earl of Kellie, impaled with that of his first Countess, Mary Kirkpatrick (c. 1660).

with three martlets in chief, for Rutherford; and fourth, a mullet for Traquair.

(3.) A shield of arms is said to be *quarterly-quartered* (or counter-quartered), when one or more of its four areas or quarters are themselves quartered, in which case they are usually termed "grand quarters." Thus, the Montgomeries of Lainshaw, cadets of the House of Eglinton, carried quarterly, First and Fourth grand



quarters counter-quartered:—first and fourth, azure, a bend between six cross-crosslets, fitché, or, for the Earldom of Mar; second and third, or, a fret, gules, for Lord Lyle, in consequence of Sir Niel Montgomerie, second of Lainshaw, having married the daughter and heiress of the last Lord Lyle: Second and Third grand quarters also counter-quartered:—first and fourth, azure, three fleurs-de-lis, or, for Montgomerie; second and third, gules, three annulets, or, stoned azure, for Eglinton.[1] A pre-

[1] This is the blazon given by Nisbet in his *Essay on Armories*, p. 101. In his larger work (*System of Heraldry*, i. 377), he substitutes the arms of Mure of Skeldon (argent, on a fess azure, three stars of the first)

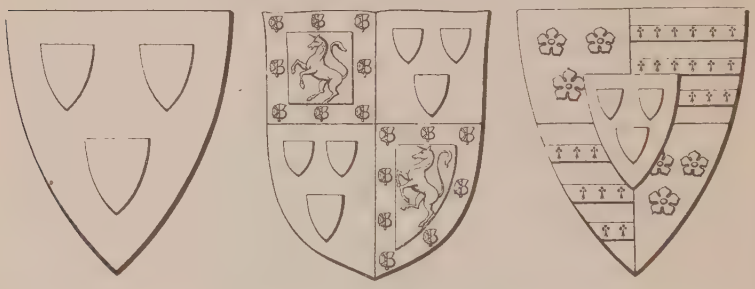
cisely similar armorial arrangement was adopted by the eldest son of William Marquis of Douglas, by his second wife, on his marriage to the eldest daughter and heiress of James first Duke of Hamilton, in consequence of which he was created Duke of Hamilton, for life, in the year 1660. In both of these examples, it will be observed that the paternal arms are deprived of their usual precedency.

As a general rule, however, in the case of quartered coats, the paternal arms either occupy the principal position in the shield, or are placed surtout on an inescutcheon, as in the achievement of the Marquis of Tweeddale.[1] The use of the inescutcheon appears to have anciently prevailed among the Emperors of Germany, and Guillim mentions an example in England as early as the reign of Richard II. (1377-99). Towards the beginning of the fifteenth century, the same arrangement is exhibited on the seal of Lord Tweeddale's ancestor, Sir William Hay of Locherwort, who married the eldest daughter and co-heir of Sir Hew Gifford of Yester—his arms being quarterly, first and fourth, azure, three cinquefoils, argent, for Fraser of Olivercastle, on account of a previous alli-

for the second and third grand quarters, and places the quartered coat of Eglinton surtout.

[1] Sir George Mackenzie objects to a different arrangement adopted by the Earl of Home, who bears quarterly, first and fourth, vert, a lion rampant, argent, armed and langued, gules, for Home; second and third, argent, three papingoes (popinjays), vert, beaked and membered, gules, for Pepdie; over all, an escutcheon, or, charged with an orle, azure, for Landell. "But these coats," says Sir George, "might have been better marshalled thus, first and fourth, Pepdie, second and third, Landell, and the Home arms surtout, or above all; or, first and fourth, Home, second, Pepdie, and third, Landell—either of which had been more proper."—*Science of Heraldry*, chap. xxiv.

ance ; second and third, gules, three bars, ermine, for Gifford of Yester ; overall (surtout), argent, three escutcheons, gules, the paternal arms of Hay.[1] The bearings of the three noble families of Erroll, Kinnoull, and Tweeddale may here be appropriately referred to, in illustration of three different modes of marshalling,



which the most unskilled herald will acknowledge to be abundantly distinctive. While the Marquis of Tweeddale adopts the blazon already noticed, the Earl of Erroll, as head of the House of Hay, merely carries the paternal arms of the family. Again, the Earl of Kinnoull bears, first and fourth, azure, a unicorn, salient, argent, armed maned and unguled, or, within a bordure, of the last, charged with eight half thistles, vert, impaled with as

[1] On the rudely-executed seal of Sir William Hay of Tallo (Laing's *Catalogue*, No. 1223), appended to an indenture dated 1473, the arms of Hay are similarly carried surtout, the bearings of Fraser and Gifford, however, being transposed.

Such mode of marshalling must not be confounded with what is termed the "escutcheon of pretence" (anciently called a "fess target"), on which it is now customary for the husband of an heiress—even in expectation—to bear her arms, placed in the centre of his own shield, instead of being impaled with them in the ordinary way. Most heraldic writers, however, are of opinion that, until the husband has issue by the heiress, and until the death of her father, he should only *impale* her arms, because he cannot, till then, transmit her inheritance to his posterity.

many half roses, gules, being a coat of augmentation; second and third, argent, three escutcheons, gules, for Hay.[1]

The practice of *transposing* the quarters, by way of differencing cadets, prevails to a considerable extent in Germany, but is of comparatively rare occurrence either in France or the United Kingdom. It is strongly objected to by Nisbet, on the ground of its "prejudging principal families," and disturbing the "precedency due to arms." He is even more decidedly opposed to the custom followed on some parts of the Continent, and also in England, of marshalling a large number of different coats in one shield, which is thus converted into a "genealogical pennon." Like many other writers on Heraldry, he does not object to six or eight quarters, provided the bearer has an undoubted right to them, as coats of alliance or pretension; and in accordance with this view, many families, entitled to at least a hundred quarters, select a few of the principal. In Germany, sometimes as many as thirty or forty different coats are accumulated in one shield, and, in England, a still greater number are occasionally used. Thus, at the funeral of the Viscountess Townsend, in 1770, a banner was carried before the hearse, exhibiting upwards of 160 quarterings, while a still more complicated example of blazonry is to be found in the hall at Fawsley, in

[1] These arms occupy the first and fourth grand quarters of Lord Kinnoull's escutcheon. The second is charged with three bars wavy for Drummond, which now forms a part of the family surname; while the third consists of a coat of augmentation (also for Drummond), viz., a lion's head erased, within a double tressure flowered and counter-flowered.

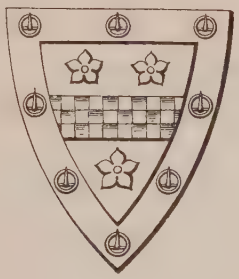
Northamptonshire, where a single escutcheon contains no fewer than 334 quarters!

As already stated, in the adoption of heraldic differences, a *secondary* object is frequently attained by the commemoration of some honourable alliance, action, or employment, or other special circumstance. We have incidentally noticed several cases where marks of distinction, by means of quartering or otherwise, have been assumed in consequence of important *alliances.* One or two other instances may here be referred to. "Thus," in the words of Sir George Mackenzie, "the Lord Balmerino charges the chevron, which the Elphinstone carries, with *three buckles,* because his mother

was Monteith and daughter to the Laird of Carse, whose charge these are; and the Lord Coupar, brother to Balmerino, did charge the chevron with *three hearts,* because his mother was daughter to Maxwell of Newark."[1] Again, when Hamilton of Innerwick, the earliest cadet of the House of Hamilton, married the daughter and heiress of Stewart of Cruxton, he placed a *fess checquy* between his three paternal cinquefoils,

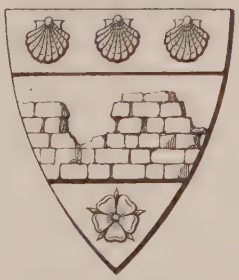
[1] *Science of Heraldry,* chap. xxi.

which figures were afterwards surrounded by a *bordure charged with eight buckles* for De Glay of Innerwick, in



consequence of another alliance. In the same manner, the first of the Cockburns of Ormiston added the *chequered fess* of Lindsay to the family arms (argent, three cocks, gules), on account of his marriage to the daughter and heiress of "Alexander de Lindsay, dominus de Ormistoun."

As instances of differences assumed by cadets to perpetuate *noble actions,* we may mention the following. The armorial ensigns of the Grahams of Inchbrakie, descended from the House of Montrose, consist of a



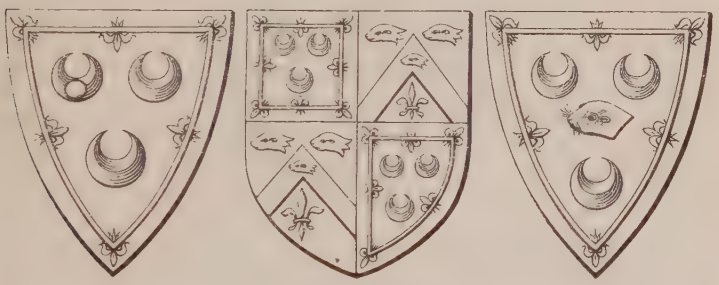
broken dyke, or wall, fesswise, with a rose in base, and three escallops on a chief (the family cognizance)—the

dyke having been adopted to commemorate the valour of a remote ancestor, in making a breach in the Roman wall erected by the Emperor Severus between the Forth and Clyde, which for ages bore the name of "Graham's Dyke." Again, the Binnings of Easter-Binning placed a *waggon* on the engrailed bend carried by the Chief of the name (Binning of that Ilk), because one of the family, with his seven sons, concealed in a waggon of hay, surprised and took the Castle of Linlithgow when in the possession of the English, during the reign of David II.

Allusions to honourable *offices and employments* occur in the escutcheon of the Bruces of Balcaskie, and in those of at least two branches of the family of Wood. Sir William Bruce of Balcaskie made the chief in his paternal coat *wavy*, "to show his kindness to and his skill in the art of Navigation." In like manner, Wood of Balbigno added, for difference, *two keys* tied with

strings to a bough of the paternal oak-tree, in reference to his office as Thane of Fettercairn; while Wood of Largo placed the tree between *two ships*, under sail, as Admiral to King James III.

Sometimes the same family considerably *varied* the mode of differencing, of which a curious example is given by Nisbet in the case of the Setons of Cariston. "The first of this family," he says, "was John, second son of George Lord Seton and his lady, Elizabeth Hay, daughter to Lord John Yester. He carried first, or, three crescents, within a double tressure counterflowered, gules; and for his difference, as a younger son of the House of Seton, charged one of the crescents with a *bezant*, as on the roof of Samson's Hall in the House of Seton: he married Isabel Balfour, heiress of Cariston,

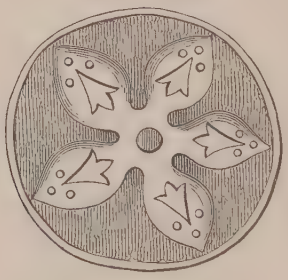


and their son George Seton of Cariston, laid aside the bezant, and placed in the centre of his paternal arms, between the three crescents, an *otter's head*, for Balfour, as in Mr. Thomas Crawford's MS. of blazons; and afterwards the family carried *quarterly*, first and fourth, Seton; second and third, gules, on a chevron, or, between two otters' heads, erased, in chief, and a fleur-de-lis in base, of the second, an otter's head, erased, of the first."[1]

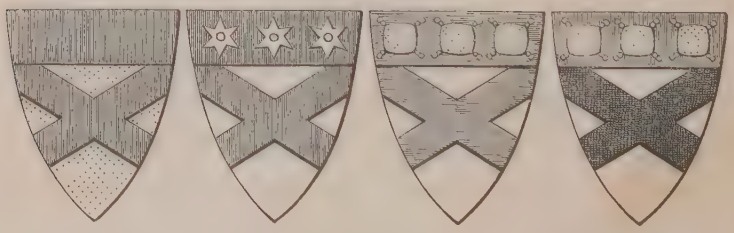
[1] *Essay on Armories*, p. 108.

For some time past, the representatives of this family have carried arms in accordance with the *second* of the above blazons, viz., an otter's head in the centre of the paternal arms.

The adoption of a part, or the whole, of the armorial ensigns of *over-lords* or *superiors,* was formerly a common practice both in this country and on the Continent, and sometimes served the double purpose of indicating gratitude and dependence, and of differencing the bearer from the head of his family. As examples of this ancient custom, Camden refers to the fact of many Cheshire and Leicestershire families bearing the garbs (or wheat-sheaves) of the Earls of Chester, and the cinque-

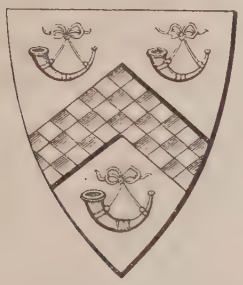


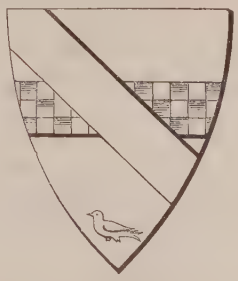
foils of the old Earls of Leicester. The same practice has largely prevailed on this side of the Tweed. Thus, in Annandale, the chief and saltire of the Bruces are



carried (of different tinctures, and with additional figures) by the Jardines, Kirkpatricks, Johnstons, and other families. In Renfrew, Ayr, and other counties

where the possessions of the Stewarts were situated, a fess, a bend, or a chevron, *checquy*, forms a common bearing; such figures being carried by the Lords Semple,



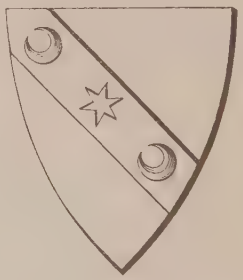


the Houstons of that Ilk, the Brisbanes of Bishoptown, the Halls of Fulbar, the Flemings of Barrochan, the Shaws of Bargarran, the Freelands of Freeland, and other families.[1] Finally, the lion of the old territorial Earls of Fife and Angus, are frequently to be found in the armorial ensigns of families connected with the counties of the same names; while in Teviotdale and other parts of Scotland formerly possessed by the great House of Douglas, the star, or mullet, constitutes a pretty common bearing.

The occasional practice of assuming an entirely

[1] According to Nisbet, Shaw of Bargarran carried, azure, a fess checquy, argent and gules, between three covered cups, or. The fess, however, does not appear in the coat of arms on the papers enclosing the thread manufactured by Lady Bargarran and her daughter, in the year 1725 (see Chambers' *Domestic Annals of Scotland*, iii. 511). Of the other families here specified, the Semples, Houstons, and Brisbanes carried a *chevron* checquy (varying in its tinctures) between three bugle-horns, three martlets, and three cushions respectively; the Freelands a *bend* checquy between two bears' heads (*Pro. of the Soc. of Scot. Antiq.* ii. 319); and the Halls a *fess* checquy (or and gules) between three cranes' heads. The Flemings also bore a fess checquy (argent and azure ?) surmounted by a bend, with a martlet in base (Nisbet's *Heraldry*, i. 151).

different coat of arms from that pertaining to the bearer's surname is very naturally challenged by Sir George Mackenzie, who refers to the Scotts of Balwearie carrying different arms from the House of Buccleuch, and also to the family of Auchinleck of Balmanno bearing an *embattled cross* (the arms of Balmanno), while *three*



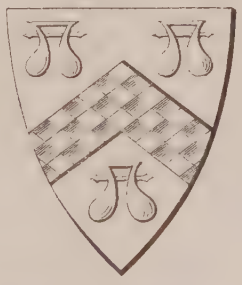
bars were carried by Auchinleck of that Ilk; "but this," he adds, "was occasioned by cadets marrying heiresses, whose arms they assumed without using their own, seeing they got no patrimony from their predecessors."[1] The learned author would have been more correct in stating that the Scotts of Buccleuch carry different arms from the family of Balwearie, seeing that the latter always bore their old paternal ensigns, viz., argent, three lions' heads erased, gules.[2] On the other hand, the ancestor of the great border clan, on his marriage to the daughter and heiress of Murdiston of that Ilk (in the reign of Robert the Bruce), laid aside the lions' heads, and assumed the arms of his wife—or, on a bend azure,

[1] *Science of Heraldry*, chap. xxi.

[2] A *chevron* is placed between the three lions' heads on the Seals of Sir Michael (1292) and Sir Walter (1412) Scott of Balwearie (Laing's *Catalogue*, Nos. 720 and 721).

a star betwixt two crescents of the first, which are now carried, with various suitable differences, by most of the existing branches of the House of Scott.

The abandonment of the paternal arms for those of some other family can hardly be regarded as a mode of differencing in the proper sense of the term, and is, moreover, quite subversive of the primary object of Heraldry, viz., the permanent association of certain charges with particular surnames, or at least particular blood. Arms, indeed, are sometimes a more certain indication of consanguinity than surnames; because two families, between whom no blood-relationship exists, may bear the same name. Thus, the common origin of the Stewarts and Boyds is denoted by the *fess checquy* which both carry ;[1] while, on the other hand, the different extraction of the family of Ross of Balnagowan and of the Lords Ross is indicated by totally different bearings ; the former being



three lions rampant, and the latter a chequered *chevron between three water-bougets*,[2] quartered with the coat of

[1] The supposed consanguinity of the Murrays and Douglases, in consequence of the similarity of their arms, is referred to in Wyntoun's *Cronykil* (Book VIII. chap. vii. lines 149, *et seq.*)

[2] The title of Lord Ross—which must not be confounded with the old

Melville. In like manner, in the escutcheons of the Blairs of that Ilk and the Blairs of Balthayock, while the tinctures are, no doubt, similar, the charges are entirely different—the one family bearing *nine mascles on a saltire*, and the other a *chevron between three torteaux*. These two families have long contended for the chieftainship, and the controversy is said to have been adjusted by King James VI. ordering that the elder male representative, for the time being, should precede the younger.[1] In the shields of the Stewarts and Boyds, the tinctures of the field as well as of the fess checquy do not correspond, thus constituting a marked difference; but it occasionally

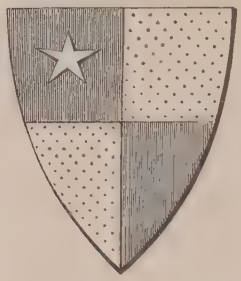
Earldom of the same name—became extinct in the person of William, 14th Baron, in the year 1754. The supposed English descent of the family is confirmed by their armorial ensigns, the water-bouget being a very common heraldic charge on the other side of the Border. It consisted of a yoke with two pouches of leather attached, for the conveyance of water to an army, and has been very differently drawn at different periods. (See *Glossary of Heraldry*, p. 323.) The chequered chevron is an indication of vassalage to the House of Stewart. —Nisbet's *System of Heraldry*, i. 407.

[1] A keen dispute of a similar kind, between the Burnets of Barns, in Peeblesshire, and the family of Leys in the north, is said to have been decided, about the middle of last century, in favour of the former, by Sir Robert Douglas (author of the *Peerage* and *Baronage of Scotland*), to whom the charters of the two families were submitted for examination. While the Barns' coat-armorial is blazoned argent, three holly leaves, vert, and a chief, azure, the Baronets of Leys carry three similar leaves in chief, and a hunting-horn, in base, sable, garnished gules; the horn, and also the supporters (a highlander and a greyhound), having reference, according to Sir George Mackenzie, to the fact of the family being the "King's Foresters" in the north. Both families, however, use the same crest and motto, viz., a hand with a knife, pruning a vine-tree, proper, surmounted by the words, "Virescit vulnere virtus." This crest and motto owe their origin to Mary Queen of Scots, and were probably intended to allude to her own unhappy condition. "When she was in England," says Bell, in his life of the Scottish Queen, "she embroidered, for the Duke of Norfolk, a hand with a sword in it, cutting vines, with the motto, 'Virescit vulnere virtus.'"

happens that two families, bearing different surnames, carry coats-armorial which are *precisely similar*, as in the case of the Setons and the Edmonstones of Duntreath, whose common descent has been conjectured from the identity of their arms, viz., or, three crescents within a double tressure, flowered and counterflowered, gules. In blazoning the bearings of the different families of Edmonstone, in the first volume of his *System of Heraldry*, Nisbet does not, in any instance, surround the three crescents with the Royal tressure, and, in the case of Duntreath, he places an *annulet* in the centre of the shield. This circumstance is referred to by the writer of the account of the Duntreath family in the Appendix to the second volume of Nisbet (p. 158), where mention is made of the seal of Sir William Edmonstone of Culloden and Duntreath (who died in 1473), as exhibiting the tressure, to indicate his Royal descent, through his mother and grandmother, who were both "daughters of the Crown." In addition to the tressure, however, Sir William's seal exhibits an annulet in the fess point,[1] but that figure is no longer carried in the Duntreath escutcheon. The use, by two different families, of a coat-armorial in which both the tinctures and the charges are identical, defeats one of the principal objects of the noble science. In the case in question, different crests and mottoes are, no doubt, carried, but the distinctive and essential portion of a heraldic achievement is the shield, and not the exterior ornaments. The well-known arms of the English Veres, Earls of Oxford, are quarterly,

[1] See Laing's *Catalogue*, No. 305.

gules and or, with a silver mullet in the first quarter. The author of the Introduction to the sixth edition of



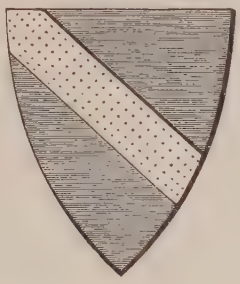
Guillim's Heraldry, after noticing the legendary origin of the star, as detailed by more imaginative writers, says that "it was only a distinction in the arms of that family from the arms of the Lord Say's family (a flourishing House at that time in the same service), which, excepting the star, did bear quarterly, gules and or,[1] the same with Vere, who was obliged to difference from the Lord Say; for two different families in one nation could not bear one coat without some addition."

In olden times, the right to a particular coat-of-arms was sometimes very keenly and formally contested by rival claimants. Thus, in the year 1346, Nicholas Lord Burnell and Sir Robert de Morley appeared in the same arms at the siege of Calais, which led to a suit in the Court of Chivalry, held upon the spot.[2] About forty years later, during the reign of Richard II., a famous heraldic controversy took place, before the High Con-

[1] The bearings of Lord Say appear to have been quarterly, *or and gules*, not gules and or; in other words, the converse of those of the Veres.

[1] See *Archæological Journal*, ii. 330, 396.

stable and Earl Marshal of England, between Richard, Lord Scrope of Bolton, and Sir Robert Grosvenor, a knight of the county of Chester; the question at issue being the right to bear, as a coat-armorial, "azure, a



bend or." The Constable pronounced sentence in favour of Scrope, but inasmuch as his opponent had adduced good presumptive evidence in support of his claim, he was allowed to carry the same coat "within a bordure, argent." Not being satisfied with this judgment, Grosvenor appealed to the King, who decided that the arms in question belonged exclusively to Scrope, and annulled the ordinance of the Constable with respect to Grosvenor, considering that "a bordure is not a sufficient difference between two strangers in the same kingdom, but only between cousin and cousin related by blood."[1]

[1] The original record of this celebrated contest, with the rival pleadings and depositions, is still preserved in the Tower of London. In the year 1832, a literal copy, accompanied by illustrative documents, was published by Sir Harris Nicolas. The evidence is possessed of peculiar interest from the circumstance of its embracing the depositions of most of the illustrious men of the age, including John of Gaunt, Sir Walter Blunt, Owen Glendower, and the poet Chaucer.

Of other modes of distinguishing cadets, we may mention the *adoption of different Crests*, without any alteration being made on the charges in the escutcheon. Speaking of the Germans, among whom this practice largely prevails, Christyn says,—"interdum arma *solo cimerio* discrepant;" and he illustrates his statement by a notice of the various families descended from the House of Burgundy. As a single example, we may refer to the Electoral Dukes of Saxony, whose shield was timbred with no fewer than eight helmets, surmounted by as many crests. This mode of differencing has been rarely followed in Scotland. Doubtless, the heraldic practice of that country has always allowed a considerable amount of freedom in the changing of crests, which, however, Nisbet considers to be "but an ornament of coats of arms, and so more of the nature of a device than a fixed piece of hereditary armorial bearings."[1] For that very reason, a systematic modification of the charges in the escutcheon, forms a much more satisfactory mode of distinguishing cadets than a change of the crest, which even the head of the family does not necessarily retain unaltered.

SECTION III.—GRANTS AND MATRICULATIONS.

The Lyon King-of-Arms enjoys the high and peculiar privilege of granting heraldic ensigns to certain persons who do not happen to inherit these distinctions from their ancestors. As already stated, this power appears to have been indirectly conferred upon him by the Act

[1] *System of Heraldry*, vol. ii. part iv. p. 19.

of 1592, which authorizes him "to put inhibition to all the common sort of people not worthy, by the law of arms, to bear any signs-armorial;" while the later Statute of Charles II. expressly declares that he may bestow such bearings on "virtuous and well-deserving persons." In the absence of any explanation of these rather indefinite words, their interpretation is left, as a matter of course, to the discretion of the Lord Lyon or of his Depute. On "being interrogated, if there is any restriction observed with respect to the class or description of persons to whom a grant of arms should be allowed," Mr. Tait depones, "That such grants are not refused in any case where the persons applying are respectable, which the deponent understands to be conformable to the practice now observed in all other Colleges of Arms." For some time past, it must be admitted that, besides character and reputation, there has existed another important qualification for the bearing of armorial ensigns in the "Regina Pecunia" of the Roman bard, which has been humorously described as possessing marvellous power in procuring a copious allowance of heraldic "or" and "argent." Indeed, the complicated charges of modern times appear to be intended to bear some proportion to the *charges* of another kind, for the exaction of which our heraldic authorities have sometimes been pretty severely censured. "In our days," says Bailey (who wrote at the end of last century), "all are accounted gentlemen that have money; and if a man has no coat-of-arms, the King-of-Arms can sell him one." An amusing writer of our own day thus expresses him-

self in a somewhat similar strain :—"To a Coat-of-Arms no man, literally speaking, has pretensions, who is not the representative of somebody that bore arms in the old English wars ; but when the necessity for military virtue decreased, arms gave way to the gown, and *shields* had honourable, but fantastic augmentations, for the peaceful triumphs of lawyers and statesmen. Meanwhile, commerce was on the increase, and there came up a new power in the shape of pounds, shillings, and pence, which was to be represented also by its coat-of-arms, how absurdly, need not be added, though the individuals who got their lions and their shields behind the counter, were often excellent men, who might have cut as great a figure in battle as the best, had they lived in other times. At length, not to have a military coat was to be no gentleman ; and then the heralds fairly sold achievements at so much the head."[1] The same author, however, openly professes to look with deep interest on really old coats-of-arms, if only for the sake of their antiquity, but especially when they happen to be associated with names which are

"Familiar in our mouths as household words :"

and he even admits that heraldic devices, "of which most people are observed to be fonder than they choose to confess, might be reconciled to the progress of knowledge, or made, at any rate, the ground of a pleasing and not ungraceful novelty."

The duties of the Lyon-Clerk, in connexion with the matriculation of Arms, are thus set forth in the Report

[1] *The Town*, by Leigh Hunt, i. 85.

of the year 1822 :—"Every application for a grant of arms, or for recording a genealogy, is made to the Lyon Office, either personally, by the applicant himself, or through the medium of an agent, or by correspondence. It is the duty of the Lyon-Clerk, on these occasions, to attend and hold personal interviews with the applicant or his agent, and to conduct the correspondence with them; to furnish them with the use of the records, and to afford every facility and assistance in making the necessary searches; to receive the documents produced by the applicant to instruct the claim, and, where these are referred to, to make the necessary examination and searches in the records of the General Register House and otherwise; and to take care that the arms are properly described and illuminated in the patent, and entered in the Register in the precise terms thereof. It is also his duty, as Keeper of the Register of Armorial Bearings, Genealogies, Manuscripts, and Books of Arms, to allow inspection of these to all who may have occasion to make searches or inquiries, and to give out, from the records, certified extracts and emblazonments when required."[1]

At present, the usual mode of procedure is for the applicant to lodge a petition at the Lyon Office, signed by his agent, both in the case of patents, or original grants, and matriculations, *i.e.*, where the petitioner happens to be a descendant, or cadet, of a family whose arms are already on record. In the former case, the applicant sets forth his descent for one or two genera-

[1] *Report on the Office and Court of the Lord Lyon* (1822), p. 24.

tions ; while, in the case of a matriculation, evidence of pedigree must be produced to "instruct the claim." If a person of the name of Douglas, for example, should make an application for a coat-armorial, and be able to prove his connexion with the great house whose name he bears, he obtains a grant of the family ensigns, with certain suitable marks of difference, the peculiar nature of which must, of course, depend on the nearness of his kin, and other circumstances. If, on the other hand, his pedigree is involved in obscurity, only a part of the Douglas arms is taken as the foundation of his escutcheon, which is further rendered distinctive by the introduction of other appropriate charges.[1] Again, where the applicant happens to bear a name which has hitherto not enjoyed the distinction of relative and peculiar heraldic ensigns, he is allowed to suggest a coat-of-arms, which is submitted to the examination of the Lyon-Depute, and granted to the petitioner, provided it be correct in point of tincture and other particulars, and not already carried by any other family. If, however, he should not think proper to suggest his future "bearings," it then becomes the duty of the authorities of the Lyon Office to compose a suitable coat-of-arms.

To the first and last of these three modes of procedure, there does not appear to be the slightest objection. In the second instance, however, it may be questioned whether the authorities are justified in granting any

[1] An individual of the name of Douglas, who had fallen back in the world, on commencing business in Glasgow with half-a-crown which had been given to him in charity, is said to have engraved the bleeding heart of the clan upon his bills ensigned with *half* a crown !

portion of an existing coat-armorial, merely because the applicant happens to bear the corresponding surname. The adoption of the arms of ancient families, with slight alterations or additions by persons whose relation to such families consist only in similarity of name, has often been most deservedly censured. Besides other "disorders and confusions," the rescinded Act of 1662 notices the unwarrantable custom of "mean persons, who can nowise derive their succession from the families whose names they bear," assuming the relative armorial ensigns; and expressly ordains, "that no man carry the Arms of any noble family of his name, except he make it appear to the Lyon (who is thereby declared to be the only judge competent in such cases and debates) that he is descended of that family." The mere circumstance of possessing a certain surname cannot, of course, be regarded as an unassailable presumption that the bearer has regularly inherited it from his ancestors. By the positive denial of such an inference, and the consequent refusal of the corresponding armorial bearings, a *bonâ fide* Gordon or Hamilton might, no doubt, sometimes be unfairly deprived of his paternal ensigns; but, on the other hand, by invariably following the opposite course, the privileges of ancient blood might be unjustly invaded, while the capricious assumption of surnames would assuredly be indirectly encouraged. Under these circumstances, therefore, it will, perhaps, be generally admitted, that only a very limited portion of an existing coat-of-arms should be assigned to an applicant for heraldic distinctions, who merely happens to bear the corresponding name.

In the pages of the Lyon Register, however, we find numerous instances of armorial grants, in which the principle in question has been to a great extent, if not entirely overlooked. Thus, in the year 1810, the Record bears that a gentleman of the name of Carstairs, "by the special consent of James Carstairs Bruce, Esquire, now of Balchrystie, the representative of the ancient family of Carstairs of Kilconquhar, in the County of Fife, is allowed to carry arms as a cadet of that family, from which he *appears* to be descended—viz., azure, on a chevron, argent, betwixt three sunflowers slipped, proper, for Carstairs, as many buckles of the first for Leslie, *by the express desire of his cousin-german*, John Leslie, Esquire, Professor of Mathematics in the University of Edinburgh"! Again, in several comparatively recent instances, the arms of distinguished families—accompanied, no doubt, by certain marks of difference—have been conferred on persons bearing the relative surnames, but of whose descent no satisfactory evidence appears to have been produced. In one case, the pedigree of the patentee is only deduced from his grandfather; while in another, he is vaguely asserted to be sprung from "a son" of some remote ancestor of the House whose name he bears!

In a good many entries, matrimonial alliance is set forth as the ground for conferring certain charges, but except in the case of a marriage to an heiress (in the heraldic sense) the propriety of such grants is somewhat questionable. Thus, in the year 1813, the following Arms were assigned to a Glasgow merchant, named

Gordon—Azure, three boars' heads, erased, or, langued gules, within a bordure, engrailed, argent; and for mark of cadency, in the centre of the field, a lion rampant, argent, "to denote his respect for and alliance by marriage with the family of Gray of Cairntyne and Dalmarnock in Lanarkshire." Before the expiration of the year, however, a fresh grant is entered in the Register, in which the lion does not appear—the original patent being declared irregular in two particulars, viz., 1*st*, in assigning as a mark of cadency the complete bearings of Lord Gray, to denote alliance with the Grays of Cairntyne; 2*dly*, in making reference in the record to the titles and arms of the Cairntyne family, before their armorial privileges had been duly ascertained and recognised in the Lyon Office.[1] A somewhat curious extension of the "matrimonial" allusion occurs in the escutcheon granted, in the year 1824, to Mr. Hagart of Bantaskine, in the second and third quarters of which we find the bearings of the family of M'Caul, "as a mark of regard and affection for the memory of the patentee's wife's maternal uncle of that name"! Again, in 1849, in addition to a displayed eagle charged with a cinquefoil as a mark of difference, the coat-armorial devised for Mr. Ramsay of Barnton embraces the time-honoured ensigns of Sandilands and Douglas, "in respect of his connexion by marriage" with the family of Lord Torphichen!!

A Patent of Arms is written on a sheet of vellum,

[1] A grant of arms to the Grays of Cairntyne subsequently appears in the Lyon Register, in the year 1819.

and sets forth the descent of the grantee, along with a (verbal) blazon of the conceded bearings, which are illuminated on the margin of the writ—a duplicate of the whole, with the exception of the purely formal parts, being engrossed in the Lyon Register. The Patent is signed by the Lord Lyon, or, more generally, by his Depute. In the case of a matriculation, a full extract of the entry in the Register is given to the applicant on stamped paper, signed by the Lyon-Clerk, or Lyon-Depute, and is accompanied by an emblazonment of the Arms on a sheet of vellum, with a relative certificate which is similarly signed.

In the grants of armorial bearings in the Lyon Register, there is a considerable variety in the terms of the Destination. The Arms are usually conferred on the Patentee and his heirs. Occasionally, however, they are limited to the heirs, or the heirs-male of his body ; sometimes to the heirs under a deed of entail, or the descendants of a particular marriage ; and not unfrequently the following proviso forms a part of the destination :—" with due and proper differences according to the laws of arms, the same being first matriculated in this public Register." In a few rare instances, the use of some of the charges is confined to the patentee himself, as in the case of the decoration of the Imperial Order of the Legion of Honour, which appears on a canton in the escutcheon conferred upon Mr. Dickson of Clockbriggs, in 1856. In the case of grants to Heiresses, the arms are emblazoned on a lozenge unaccompanied by a crest, in accordance with a well-known rule of Heraldry : but a suitable provision is

usually made to meet the contingency of heirs-male, as in the following entry, in 1837, relative to the arms of Mrs. Eleanor Bethune of Balfour, spouse of Colonel Drinkwater, only daughter of Charles Congalton of that Ilk, and heir of tailzie and of provision of her deceased brother, Gilbert Congalton or Bethune :—Quarterly, 1st and 4th azure, a fess between three mascles or ; 2d and 3d argent, on a chevron, sable, an otter's head erased of the first—" to be borne by the Patentee and her heirs-female in a lozenge ; but in the event of heirs-male succeeding to the estate, above the shield is to be placed a helmet befitting their degree, etc.—*Crest*, an otter's head, erased, argent ; *Motto*, De Bonnaire." In like manner, a few years later, in the case of another heiress—Miss Margaret Anne Kellie—a similar arrangement is made, the grant being immediately followed by another in favour of the lady's husband, Mr. George Kellie-M'Callum, who is authorized, in respect of his marriage, to carry the Kellie arms over his own in a shield of pretence, provision being made for the heirs of the marriage bearing the coats of M'Callum and Kellie quarterly.

A curious case—involving the possession of a grant of arms—occurred not many months ago in the English Court of Exchequer. A certain Joseph Stubs of Warrington, in return for the solid " consideration" of £79, 13s., obtained a Patent of Arms from the College of Heralds, which extended the right to wear the coat to the two sons of the deceased brother of the patentee, who himself happened to have no lineal descendants. In the year 1860, shortly before his death, he made a

will, in which he left absolutely to his wife all his household goods, books, pictures, plate, etc., under which bequest, when she became his widow, she claimed the grant of the College of Arms. It was argued on behalf of the sons of the testator's brother, who were the plaintiffs in the action, that the patent belonged to them; but, in the course of the discussion, Mr. Baron Bramwell said, that it did not appear that they had ever agreed to wear the arms, and jocularly asked, whether the Earl Marshal can "inflict" arms on a man without his consent? The Court, however, held that, besides being entitled to bear the arms, the widow had a right to retain the grant to justify the use of them; that it was not an instrument of such a character that any one could specifically claim it, like a patent of Peerage; but suggested that the plaintiffs might perhaps file a bill in Chancery, to prevent the widow from destroying or defacing the document.

The Lyon Register embraces a few entries of arms, of which no record had been made when they were originally granted. Thus, in the year 1820, on the production of a Patent of Arms, dated 29th November 1700, by Sir Alexander Erskine of Cambo, Lord Lyon King-at-Arms, in favour of Sir William Scott of Harden, a relative insertion is duly made in the Register, in consequence of the grant not having been entered at the proper time; and it may be interesting to mention, that the application for registration was made by "Walter Scott of Abbotsford, Esquire, one of the Principal Clerks of Session." Again, as late as 1849, a similar entry

appears relative to the arms of the Bank of Scotland, originally granted by the same Lord Lyon in the year 1701.[1]

In 1825, we find a curious insertion respecting the forfeited ensigns of Andrew Fletcher of Saltoun, which had been deleted from the Lyon Register "upon his forfaulture in the Justice Court, 4th January 1686." The record bears, that "although the said Andrew was by Act of Parliament restored in the year 1690, yet as no re-entry of the armorial ensigns of the chief of his family had been made upon the said Register subsequent to the said restoration, the same are now, upon petition to that effect by (his great grandnephew) Andrew Fletcher, the representative of the House of Saltoun, here matriculated of new," viz., sable, a cross flory betwixt four escallops, argent.

A few examples occur of what may be termed amended Matriculations, either in consequence of certain errors in the original grants, or for the purpose of adding supporters, and making other alterations. Occasionally, however, when the change is not very extensive, it is merely recorded in a marginal note, as in the case of the additional crest and motto granted by the Lord Lyon, in 1860, to Mr. Mitchell-Innes of Ayton—the original grant to his father having been made twenty years previously.

Besides grants and matriculations, the Register con-

[1] The later volumes of the Register contain a few other grants to Companies, Corporations, etc.; such as the Edinburgh and Glasgow Bank, the Educational Institute of Scotland, and the Faculty of Advocates. In the case of the Educational Institute, the arms are granted to "the General Committee of Management and their *successors in office*."

tains one or two entries styled Exemplifications, relating to arms originally granted on the other side of the Tweed. The bearings of Mr. Watson Taylor are thus recorded in the year 1815, on the authority of a relative warrant transmitted from the English College of Heralds. In like manner, in the year 1851, a suitable entry is made, on the application of Mr. Carrick Moore of Corswall, in virtue of a grant of arms to his brother, Sir John Moore, in 1804, under the hands of the three English Kings-of-Arms,—the destination being to the patentee and his descendants, and the descendants of his late father.

In the year 1836, the Record furnishes an example—which is probably unique—of the substitution of a Scottish for an English grant, in the case of the Rev. John George Storie, Vicar of Camberwell, in Surrey, on the ground that he is descended from a Renfrewshire family, and is "desirous to renew his connexion with Scotland, and to have the Lord Lyon's authority to bear and use such armorial ensigns as might by his Lordship be found suitable, and to discontinue those formerly registered to his family in the College of Arms, London." The bearings granted on the occasion are :—Argent, a lion rampant, double-queued, purpure, within a tressure flowered of the same.

Any one who has paid the slightest attention to the subject of Heraldry, must be perfectly familiar with the frightful perversions of the "noble science" which have occurred in modern times. Instead of the chaste and simple devices which figuratively represented the noble actions of our ancestors "in the brave days of old," we

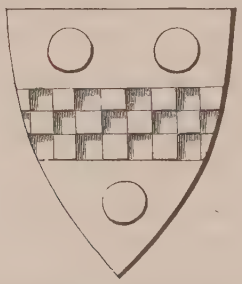
have to lament the introduction of a complicated and unmeaning system of blazonry. More than one writer has noticed the connexion that so long existed between Heraldry and Gothic Architecture, and it may be remarked that the almost simultaneous debasement of both sciences, constitutes a curious parallelism in their history.[1] Many of the numerous coats-of-arms granted by the English heralds as far back as the time of Queen Elizabeth, afford striking examples of unseemly innovations, which gradually increased till the days of George III., when the worst possible heraldic taste appears to have prevailed. Occasional exceptions are, no doubt, to be found, especially in the course of the seventeenth century. Some of the armorial ensigns designed by the worthy Camden, who departed this life in 1623, are said to be extremely appropriate. The coat which he granted to the family of Pitt, refers to their employment in the Exchequer, and is blazoned thus :—Sable, a fess *checquy*, argent and azure, between three bezants (*gold coins*).[2]

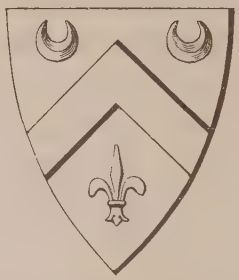
[1] "The Styles of blazonry admit of classification like those of Gothic Architecture. The bare deviceless ordinaries agree with the sturdy pier and flat buttress of the *Norman* age ; the progress of ornament uniting still with chasteness of design may be called *Early English ;* the fourteenth century exhibits the perfection of both sciences, as displayed in the highest degree of *Decoration* consistent with purity ; and the mannerism of Henry VIII.'s time, with its crowded field and accumulated charges, is as essentially *Florid* and flamboyant as any panelling or tracery in the kingdom." (*Cambridge Antiq. Soc. Publications*, No. iv. p. 11, by H. A. Woodham, Esq.)

See also an interesting essay "On Heraldry and its connexion with Gothic Architecture," read before the "Institute of British Architects," in 1836, by Mr. W. L. Donaldson, and Dallaway's *Heraldry in England*, pp. 175, 321.

[2] The royal family of Stuart (or Steward) bore a fess checquy, in allusion to their name, which they derived from their ancient office—

Again, the two *crescents* and the *fleur-de-lis* which were granted to Sir Cloudesley Shovel, in the year 1692, form





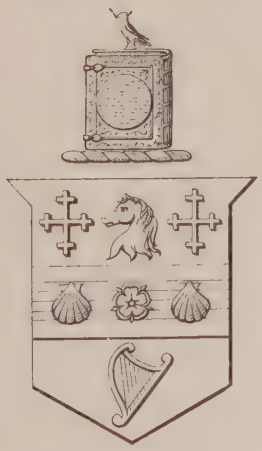
a most suitable memorial of two victories over the Turks and one over the French. In some cases, perhaps, as Mr. Lower charitably suggests, the odious coats-armorial of the last and the present centuries, may owe their origin to those "personages who dictated to the heralds what ensigns would be most agreeable to themselves;"[1] but surely the authorities of the College of Arms were bound to have fulfilled the duties of their honourable office, by interdicting the adoption of any grossly inappropriate devices.

Along with a very suitable escutcheon—a fess wavy (emblematical of the sea) between two polar stars—the following quaint and somewhat questionable crest was granted by Queen Elizabeth to Sir Francis Drake:—A ship under reef, drawn round a globe, by a cable-rope, by a hand issuing out of the clouds. The arms devised, in 1785, for the family of another illustrious navigator, cannot be regarded as even an approach to a heraldic

the chequered fess representing the Steward's board. The chequers still frequently to be seen at the sides of tavern doors have a similar origin.

[1] *Curiosities of Heraldry*, p. 177.

coat, being neither more nor less than a geographical chart—viz., azure, two polar stars, or; a sphere on the plane of meridian; north pole elevated, circles of latitude for every ten degrees, and of longitude for every fifteen; showing the Pacific Ocean between 60° and 240° west; bounded on one side by America, and on the other by Asia and New Holland, in memory of the discoveries made in that ocean by Captain Cook, so very far beyond all former navigators—his track being marked by red lines![1] The following arms granted, in 1760, to the family of Tetlow, seated at Haughton in Lancashire, are assuredly a delightful specimen:—Azure, on a fess argent, *five musical lines*, sable, *thereon* a rose, gules, between two escallops of the third; in chief, a nag's



head, erased, of the second, between two cross-crosslets, or; in base, a harp of the last. Crest on a wreath a book

[1] The crest of the Scottish family of Bontein of Milldovan is an armillary sphere, proper.

erect gules, clasped and ornamented, or, thereon *a silver penny, on which is written the Lord's Prayer;* on the top of the book a dove proper, in its beak *a crow-quill*, sable. This crest was invented to commemorate an achievement performed by one of the family, namely, writing the Lord's Prayer within the compass of a silver penny with a crow-quill! Motto—Præmium Virtutis Honor. A fess, five musical lines, a rose, two scallop-shells, a nag's head, two cross-crosslets, and a harp—total, thirteen!! Pretty well for the escutcheon. Then the crest in charming proportion:—A book, a silver penny, the Lord's Prayer, a dove, and a crow-quill! Surely no fee could be too exorbitant for such a glorious complication of devices![1] Again, in the language of Mr. Newton, "if we examine the armorial devices latterly appropriated to indicate the achievements of a long series of British worthies, whose martial exploits have shed peculiar lustre upon our age and nation, we find a new species of insignia adopted, of a character totally at variance with the art of heraldry, and altogether unknown to the science in its palmy days. Instead of those significant symbols and conspicuous figures employed by ancient heralds, calculated to strike the beholder at a distance, we now see minute landscapes, or marine views,

[1] The 65th volume of the *Gentleman's Magazine* (1795), contains a notice of a most extraordinary armorial achievement, which is said to have figured on the panels of a hackney coach, and which may perhaps have belonged to a "son of Abraham," viz., quarterly, a lion, ox, man, and eagle (the emblems of the four Evangelists). *Crest*—the ark or mercy-seat, overshadowed by cherubim. *Supporters*—two angels from the waist upwards, with hairy legs and cloven feet, like demons or satyrs. *Motto*—"Holiness unto the Lord" (Zech. xiv. 20).

depicted upon shields, whereon the details are scarcely discernible upon the most minute inspection, and which it is utterly impossible, by the language of heraldry, to describe.[1] To indicate the achievements performed during the late war, a practice of the Heralds' College has prevailed, not of displaying, as of old, in poetic figures, the particular acts of the several heroes, but of exhibiting matter-of-fact representations of the scenes of action in which they have been engaged. Hence we find, mostly in the chief part of the shield, not an emblazoned heraldic device, but an extensive landscape depicted after nature; a field of battle covered with killed and wounded; an island taken by assault; an engagement at sea, with ships sinking or blown up; a fortress stormed, or a castle shattered in ruin: and so perfectly unintelligible are these exhibitions acknowledged to be by the ingenious designers themselves, that we usually have in some part of the arms an explanatory scroll, with the word Trafalgar, Acre, Gibraltar, Seringapatam, Algiers, etc., reminding us of the country sign-post dauber, who, to make his artistical efforts understood, accompanies the device with a description, as 'The White Horse,' 'The Blue Lion,' or 'The Dun Cow.'"[2]

Among the tolerably successful modern perversions of Heraldry, the same writer enumerates the armorial bearings of Lords Nelson, Exmouth, and Harris, and, it

[1] Instead of ordinary heraldic symbols, many of the escutcheons borne by ancient families in Wales exhibit curious pictorial devices commemorative of some real or legendary occurrence, such as a wolf issuing from a cave, a cradle and child under a tree guarded by a goat, and other similar combinations.

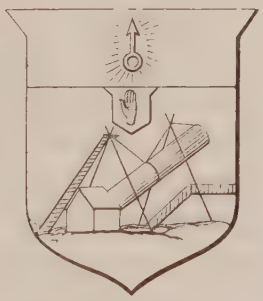
[2] *Display of Heraldry*, p. 408.

is painful to add, those of Lord Camperdown and two distinguished Baronets of the Clan Campbell. The

following augmentation to the paternal ensigns of one of the latter, is quite sufficient to call forth the shade of the "Gude Schir David Lyndsay:"—On a chief argent, a mount vert, inscribed "Ava" in letters of gold, thereon a Burmese stockade *proper*, between a representation of the gold cross and clasp conferred for distinguished services during the Peninsular war, on the dexter, pendent from a ribbon gules, fimbriated argent, and on the sinister, pendent from a ribbon azure, the badge of the Portuguese Order of the Tower and Sword. The escutcheon of the gallant Lord Gough affords a still later example of unchaste and complicated Heraldry, being quarterly, 1st and 4th gules, on a mount vert, a lion passant gardant, or, supporting with its dexter paw the Union Flag proper, and over the same, in chief, the words "China," "India," in letters of gold. 2d and 3d azure, on a fess argent, between three boars' heads, couped, or, a lion gules (being the family arms); in the centre chief point, pendent from a ribbon, argent, fimbriated azure, a repre-

sentation of the badge of the Spanish Order of Charles III. proper; and on a chief, a representation of the east wall of the fortress of Tarifa, with a breach between two turrets, and on the dexter turret, the British flag flying, also proper.

It would be easy to mention many other equally *improper* insignia recently granted by the officers of the "College of Arms," of which we may refer to the bearings of Sir John Herschel, which are commemorative, not of warlike achievements, but of scientific discoveries. Between an appropriate Crest and Motto, the escutcheon of that eminent philosopher is thus blazoned:—Argent, on a mount, vert, a representation of the "forty feet reflecting telescope," with its apparatus proper; a chief,



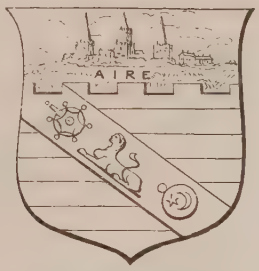
azure, thereon the astronomical symbol of "Uranus," or "Georgium Sidus," irradiated, or. Instead of the "forty feet reflecting telescope," surely the most ordinary ingenuity might have selected something rather more heraldic, and, at the same time, equally characteristic, from the numerous "celestial figures," which occupy no fewer than thirty folio pages in the principal work of the

worthy Alexander Nisbet. Or, failing an original production, the Arms borne by John de Fontibus, Bishop of Ely, in the year 1220, might have been appropriated by the Astronomer, viz., Azure, the sun, moon, and stars, or, the two first in chief and the last in base; or those granted, as late as 1788, to the family of Thoyts, in Essex —Azure, on a fess between three mullets of six points, or, two characters of the planet Venus, sable.

Finally, let us refer to the crest and motto of the eloquent Lord Macaulay, of which the former was assuredly not very symbolical of the pursuits of a man whose pen made his peerage—a Blucher boot, with a golden spur, planted upon a rock! The figure afforded a good deal of innocent amusement at the time of its assumption, when it was suggested, by way of explanation, that one of the primitive Macaulays might perhaps have been a Knight of St. Crispin. In that case, however, it was urged that the motto was altogether unsuitable, and that instead of "Dulce Periculum"—which appeared to be peculiarly inappropriate for one who had passed through life more pleasantly than most men—"Ne sutor ultra crepidam" would have been much more relevant!

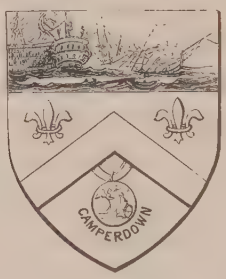
Like the Books of the English College of Arms, the later portion of the Lyon Register exhibits a good many specimens of impure and complicated blazon, which present a strange contrast to the simple Heraldry of an earlier age. Probably some of the most objectionable are the grants to military and naval officers, embracing the landscapes and other unsuitable devices already referred to, of which a few examples may here be adduced. On an

embattled chief in the escutcheon devised for a gallant colonel of a Highland regiment, in 1815, we find "a representation of the town of Aire in France, all proper,"



in allusion to his glorious services on the 2d of March 1814, which are fully detailed in the Register. The year following, a most abundant supply of heraldic insignia is conferred upon another military hero of the Clan Campbell. In the first quarter, gyronny of eight for Campbell, with a lion rampant on a dexter canton, to indicate descent in the female line from Maclauchlan of that Ilk. In the second quarter, a lymphad, or galley, with her oars in action. In the third, a fess checquy. In the fourth, a repetition of the gyrons, with another canton charged with two bars, indicative of descent in the female line from Sir Ewan Cameron of Locheil. Pendent from the centre chief point, by the proper ribbon, a representation of the gold cross and clasps presented to the bearer for his services during the Peninsular war, and the silver medals conferred upon him for his signal intrepidity at the memorable battles fought in the Netherlands. The shield is surrounded by the Ribbon of the Order of the Bath, with the legend, "Tria juncta in uno," in which the most casual observer would naturally suggest the

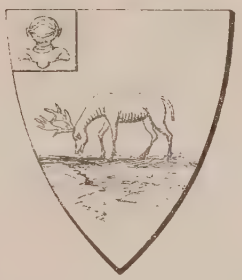
substitution of *Triginta* for "Tria," as more strictly descriptive of the contents of the escutcheon, besides questioning the consistency of the motto which surmounts the crest, viz., "Nil tibi"! The grant of arms, in the year 1836, to the son of Sir William Fairfax, Flag Captain to Admiral Duncan at the battle of Camperdown, affords another characteristic example of pictorial Heraldry. Azure, a chevron between two fleurs-de-lis, in



chief, and a Camperdown medal, in base, or, the medal being pendent by a striped ribbon, argent, azure, and argent, with the word "Camperdown" underneath; and on a chief a representation of His Majesty's ship "Venerable" engaging the Dutch Admiral's ship "Vryheid."

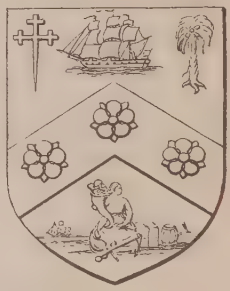
Some of the bearings devised for civilians are equally open to criticism. Thus, the escutcheon granted to Mr. Maitland of Dundrennan, in 1806, exhibits, in its second and third quarters, "the ruins of an old abbey on a piece of ground, all proper"—the patentee being proprietor of the barony of Dundrennan—while the crest consists of a demi-monk, holding a crucifix in one hand and a rosary in the other. A few years later, in one of the quarters of a shield assigned to an Argyllshire

gentleman, we find "a galley moored in front of Fingal's Cave, off the cliff of the Isle of Staffa issuing from the dexter side, proper, and in the sea undy, vert, in base, a salmon naiant, argent." Again, the bearings con-



ferred, in 1841, upon Mr. Raeburn of St. Bernard's, son of the eminent portrait painter, are thus blazoned:—Argent, on a piece of ground in base, vert, a roebuck statant, proper, drinking out of a burn or brook running bendways, azure, and on a canton, ermine, a knight's helmet, proper; "the last being commemorative of the honour of knighthood conferred on the patentee's father by His Majesty King George IV."! Several other examples of what may be termed allusive arms occur about the same period. Thus, James Inverarity of Rosemount, formerly of the H.E.I.C. Medical Service, carries gules, on a chevron, or, between six arrows in chief, three and three, the points upward, two saltirewise and one in pale, plumed and banded, argent, and in base a hunting-horn stringed, of the third, an elephant's head couped, sable. *Crest*—A rosebush, proper. *Motto*—Semper floreat. The arrows are intended to symbolize the latter part of the bearer's surname (!), while the hunting-horn refers to his

maternal descent—his mother being a Duncan; the elephant's head to his connexion with India, and the crest to his place of abode. In more than one instance, the

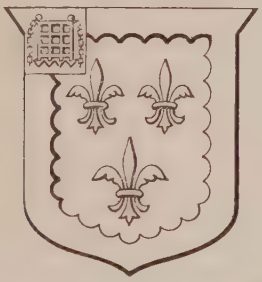


triumphs of Commerce are elaborately displayed, as in the escutcheon of Michael M'Chlery, a London merchant of Scottish extraction, "connected by trade and actively engaged in traffic with various colonies in the West Indies and other countries:"—Azure, on a chevron, argent, between a ship in full sail, or, placed betwixt a cross-crosslet, fitched, and a palm-tree eradicated fessways in chief, of the second, and in base the figure of Commerce, of the third, three roses, gules. *Crest*—A thistle, proper. *Motto*—Labore et Honore. Commerce is here associated with Religion (*cross-crosslet*) and Peace (*palm-tree*), while the roses bear reference to the English residence of the patentee, and the crest to the land of his fathers. Again, in the shield of a Glasgow sugar-refiner and ship-owner, maternally descended from the Campbells of Craignish, we find a most imposing array of miscellaneous charges, surrounded by a bordure "gyronny of eight." A fess, a lion rampant, a garb, a ship in full sail "on the sea," a thistle, and a stalk of

sugar-cane—the last-mentioned figure being in allusion to the professional pursuits of the bearer.

On the other hand, however, the Register supplies numerous illustrations of appropriate and tasteful blazonry, of which the following Coats, all granted during the last fifteen years, may be given as examples :—

Sir Frederick Pollock, Lord Chief Baron of Her Majesty's Court of Exchequer in England, son of the late Mr. David Pollock of Kelso, in the County of Roxburgh :—Azure, three fleur-de-lis within a bordure engrailed, or, and as an honourable augmentation commemorative of his Lordship's official rank, in the dexter chief point, on a canton, ermine, a portcullis of the second.



James Lorimer of Kellyfield (father of the present Lyon-Clerk)—Parted per chevron gules and or, two spurs paleways, rowels downwards, buckled and strapped, in chief, of the second, and in base a horse courant at liberty, sable—the charges being relative to the name.[1]

[1] Mr. Lorimer's crest consists of two eagles' wings surmounted by a cross-crosslet with the motto "Upward," while the word "Onward" forms a second motto, under the escutcheon—the two mottos bearing appropriate reference to the spiritual and mundane elements symbolized by the crest and the shield respectively.

James Henry Lawrence-Archer, Esquire, Captain in the Army :—Parted per fess azure and argent, in chief, three broad arrows in pale with the points downwards, or, and in base a cross raguly, gules, charged in the centre with a saltire, of the third.[1]

Sir George Brown, Knight Grand Cross of the Bath, General and Commander in Chief of Her Majesty's forces in Ireland, etc.—Gules, on a chevron betwixt three fleur-de-lis, or, a mural crown of the first, all within a bordure embattled, of the second.

The "composition" of a coat-armorial has sometimes been pretty successfully accomplished without the aid or intervention of the duly constituted authorities. An interesting illustration of this occurs in the correspondence of Robert Burns, who thus expresses himself in a letter to Mr. Cunningham, in the year 1793 :—"I lately lost a valuable seal, a present from a departed friend, which vexes me much. I have gotten one of your Highland pebbles, which I fancy would make a very decent one, and I want to cut my armorial bearing on it : will you be so obliging as inquire what will be the expense of such a business ? I do not know that my name is matriculated, as the Heralds call it, at all, but I have invented arms for myself ; so, you know, I shall be chief of the name, and, by courtesy of Scotland, will likewise be entitled to supporters. These, however, I do not intend having on my seal. I am a bit of a herald, and shall give you, *secundum artem*, my arms. On a field, azure, a holly bush seeded, proper, in base ;

[1] See Plate iii. fig. 2.

a shepherd's pipe and crook, saltirewise, also proper, in chief. On a wreath of the colours, a woodlark perching on a sprig of bay-tree, proper, for crest. Two mottoes : round the top of the crest, 'Wood-notes wild ;' at the bottom of the shield, in the usual place, 'Better a wee

bush than nae bield.'"[1] It is somewhat remarkable that these very bearings ultimately found their way into the Lyon-Register, being embraced in the grant of arms to Dr. James Burnes (the eldest brother of the lamented Sir Alexander Burnes, and a kinsman of the poet), in the year 1837, and again in an amended matriculation, in 1851, to the following effect :—Ermine, on a bend azure, an escutcheon, or, charged with a holly bush, surmounted by a crook and bugle-horn, saltire-ways, all proper, being the well-known device used by

[1] Mr. Chambers informs us that a seal with these fanciful bearings was actually cut for the poet, and used by him during the remainder of his life. It is represented under the profile of its owner in Mr. Cunningham's Edition of Burns, viii. 188 (*Life and Works of Burns*, iii. 287).

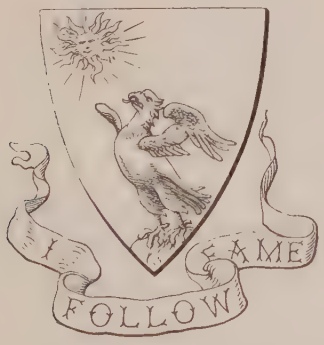
the poet Burns; and on a chief, gules, the white horse of Hanover, in allusion to the Civil Hanoverian Guelphic Order conferred on the bearer by William IV., and to the distinguished services of himself and his brothers in India.

The works of the great English dramatist abound with allusions to the "Noble Science," indicative of a thorough knowledge of the subject. Every one, for example, must remember the amusing dialogue between Shallow and Slender, at the commencement of the "Merry Wives," regarding the family status of the former, whose successors "gone *before* him," as well as his ancestors "that come *after* him," were unquestionably entitled to the designation of *armiger*, besides charging their "old coat" with a "dozen white *luces*." An interesting parallel has been drawn between Shakespeare and Scott, with reference to their respective endeavours to found a family, both having had a motive for the idea in the gentle blood which flowed in their veins. In the year 1596, "when Shakespeare was getting his head above water in London, his father is found applying to the Heralds' College for a coat of arms on the basis of family service to King Henry VII., of official dignity, of the possession of property, and the fact of having married a daughter of Arden of Wilmcote; an application which was extended, three years later, to one for the privilege of impaling the Shakespeare arms with those of Arden. There can, of course, be no doubt that William the poet prompted these ambitious applications, and designed them for the benefit of himself and his descendants. They take their

place, with the investments at Stratford, as part of the ultimate plan of life which the great poet had in view."[1]

The Laureate of our own day furnishes numerous examples of his familiarity with the science of Heraldry, and on at least one occasion he exercises his imaginative powers in the production of a piece of blazonry. In one of his charming "Idylls of the King," the wizard Merlin thus addresses the "wily Vivian:"—

> "I once was looking for a magic weed,
> And found a fair young squire who sat alone,
> Had carved himself a knightly shield of wood,
> And then was painting on it fancied arms,
> Azure, an eagle rising or, the sun
> In dexter chief; the scroll 'I follow fame.'
> And speaking not, but leaning over him,
> I took his brush and blotted out the bird,
> And made a gardener putting in a graff,
> With this for motto, 'Rather use than fame.'"



Unfortunately, however, the originality of the young squire's "fancied arms" is altogether open to question,

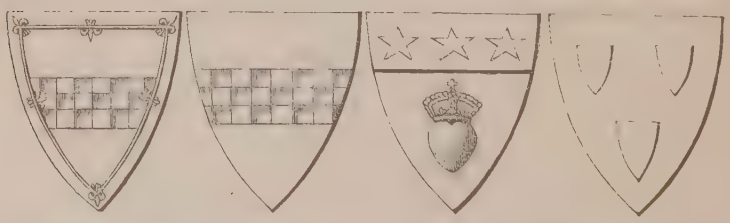
[1] *Book of Days.*

consisting as they do of nothing more nor less than the crest borne by the ancient Scottish family of Spottiswoode of that Ilk, in the county of Berwick!

How immeasurably superior to the inharmonious combinations of modern Heraldry are the plain but beautiful escutcheons of the days of yore, one of which is thus referred to in the well-known lines of Spenser:—

> "And on his brest a bloodie crosse he bore,
> The deare remembrance of his dying Lord,
> For whose sweete sake that glorious badge he wore,
> And dead, as living ever, him adored:
> Upon his shield the like was also scored."[1]

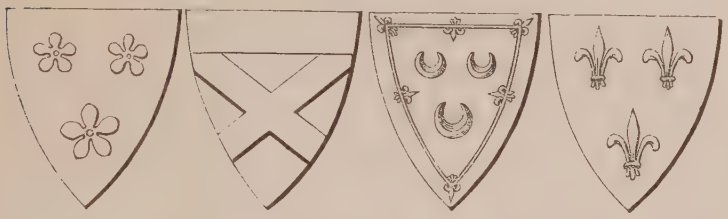
Apart altogether from historical association, it is a positive relief to turn from the distasteful "signboards" of the nineteenth century to such examples as the following:—The stags' heads of Cavendish, the fusils of Percy, the chief and lion rampant of Russell, the bends of Stanley and Curzon, the fret of Harrington, and the plain quartered shield and silver mullet of De Vere. In our own corner of the empire, it is no less pleasing to



call to remembrance the chequered fess of the Stewarts and Lindsays, the crowned heart and mullets of the

[1] *Faërie Queen*, B. 1. c. 1. st. 2.

Douglases,[1] the inescutcheons of the Hays, the cinquefoils of the Hamiltons, the saltire and chief of the Bruces, the crescents of the Setons, the fleurs-de-lis of the Mont-



gomeries, the garbs of the Cumins, the pale of the Erskines, the engrailed cross of the Sinclairs, and the boars' heads of the Gordons. Although vast changes

have undoubtedly occurred in the habits and occupations of our countrymen since those distant days which witnessed the purest and the proudest age of blazon, the noble science of Heraldry still affords ample materials, in its endless devices and combinations, not only for the distinction of different families and their cadets, but also

[1] "The blodye harte in the Dowglas armes
Hys standere stode on hye,
That every man myght full well knowe:
Byside stode starres three."—
The Battle of Otterbourne (a poem written about the time of Henry VI. 1422-61).

for the emblematical representation of almost every achievement of modern times. The mere circumstance of its original connexion with the field of battle is no reason why its symbols should be confined to the warrior's escutcheon, as its figurative language is adapted to commemorate the boundless benevolence of a Howard in the eighteenth century, as well as the heroism which distinguished the same illustrious name on the bloody plains of Flodden.

While we cannot but sympathize in the regret expressed by a writer already quoted, "that the successors of our ancient heralds should so far have forgotten the honour of their calling, as to throw ridicule upon the science they were bound to cherish; to heap contempt upon a system inexhaustibly rich in poetic illustration; and to be the destroyers of that which neither the change of manners nor the feelings of the age has had the power to eradicate;" let us, nevertheless, venture to hope that, along with a most gratifying return to a purer and better taste on the part of the professors of Architecture, we may also witness a revival of those simple rules and principles which regulated, in an earlier age, the blazon of Armorial Ensigns.

SECTION IV.—FEES AND OTHER EMOLUMENTS.

With the exception of the power of levying certain penalties for the unlawful use of armorial ensigns, the Lord Lyon does not possess a right to any fees or casualties under the legislative enactment of 1592. By the

Statute 1662, c. 53, the Lords of the Privy-Council were authorized to modify fees to the Lyon Office, where the same were not modified already; but that provision was probably never carried into execution, because the Act, as previously stated, was repealed in 1663. The Statute of 1672, however, besides re-enacting the pecuniary penalties of 1592, fixes the following fees for the matriculation of armorial bearings :—

Prelates and Noblemen, . .	20 Merks	= £1	2	$2\frac{8}{12}$ Stg.
Knights and Barons, . . .	10 „	= 0	11	$1\frac{4}{12}$ „
All other Persons, ...	5 „	= 0	5	$6\frac{8}{12}$ „

The Appendix to the Commissioners' Report of 1822 contains the following "Table of Fees" for the matriculation of arms in the Lyon Office, dated April 1760; but the authority on which it rests, or the period when it was first established, does not appear to have been ascertained :—

	Lord Lyon.	Lyon-Dep.	Lyon-Clk.	Clk.-Dep.	Seal and Ribbons.	Painting.	Total.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Duke, ...	26 5 0	4 4 0	3 3 0	1 1 0	0 10 6	1 1 0	36 4 6
Marquis, . . .	24 3 0	3 13 6	2 12 6	1 1 0	0 10 6	1 1 0	33 1 6
Earl, ...	21 0 0	3 3 0	2 2 0	1 1 0	0 10 6	1 1 0	28 17 6
Viscount, . . .	19 0 0	2 2 0	2 2 0	1 1 0	0 10 6	1 1 0	25 16 6
Lord, ...	16 0 0	2 2 0	2 2 0	1 1 0	0 10 6	1 1 0	22 16 6
Knight and Gentleman, . . .	3 6 8	0 13 4	1 0 0	0 5 0	0 2 6	0 10 6	5 18 0
Do., with supporters, *discretionary*, never below	21 0 0	2 12 6	2 2 0	1 1 0	0 5 0	1 1 0	28 1 6

It is added, that "when a gentleman's or knight's arms are recorded in the Register as the first of the name, or have a compartment, double fees are charged."

So far as noblemen are concerned, the above rates have had no precise application to the Lyon Office since the union of the Kingdoms; but the fees for matriculating the arms of a "knight or gentleman" continued to be the rates charged as late as 1804. From that date, however, these fees were gradually augmented till they reached their maximum about the year 1814. Their progressive increase will appear from the following examples :—

1805.	Average of *Two* Patents, . . .	£16	9	0	
1806.	„ *Four* Patents, . . .	16	19	7	
1808.	A Single Patent charged, . . .	20	9	6	
1811.	„ „ . . .	31	10	0	
1811-14.	„ „ . .	from 31	10	0	to £42.
1814-22.	„ „ . . .	52	10	0	

Between 1805 and 1814, the fees for a grant of arms, *with supporters*, were, in like manner, variously and arbitrarily charged. In 1808, for example, the sum paid for a Baronet's patent amounted to no less than a hundred guineas, of which the Lord Lyon's proportion was £52, 10s. Subsequently to the year 1814, an extraordinary distinction appears to have been made with respect to supporters : "Where the party was considered to have a full *right* to them by the Heraldic law of Scotland," the fees charged amounted to £84 ; but "where the Lord Lyon's concession of supporters was more of the nature of a *favour* or discretionary grant," the sum of £115, 10s. was exacted. Besides other particulars, the allotment of these maximum fees to the different officers is set forth in the following table :—

	Without Supporters.	Supporters, Lower Rate.	Supporters, Higher Rate.
Lord Lyon,	£10 10 0	£31 10 0	£52 10 0
Lyon-Depute,	6 6 0	10 10 0	10 10 0
Lyon-Clerk,	6 6 0	10 10 0	10 10 0
Do., for extra trouble,	6 6 0	8 8 0	10 10 0
Lyon-Clerk-Depute,	2 2 0	3 3 0	4 4 0
Books and Records,	4 4 0	2 2 0	5 5 0
Herald Painter,	2 2 0	4 4 0	6 6 0
Seal, Wax, and Livery,	3 3 0	2 2 0	4 10 6
Tin Box,	1 1 0	1 1 0	1 1 0
Stamp,	10 10 0	10 10 0	10 3 6
TOTAL,	£52 10 0	£84 0 0	£115 10 0

Besides one guinea for a "tin box," and ten guineas for a "stamp," we have here a fee to the Lyon Clerk "for extra trouble," and another for the "books and records" (amounting, in the case of an ordinary grant of arms, to £6, 6s. and £4, 4s. respectively), neither of which is contained in the table of 1760 ; but without taking these four additional items into consideration, the other rates charged subsequently to 1814 were more than five times the amount of those paid prior to the year 1804.

"Of the great addition which has thus been made to the fees for matriculations, since the year 1804," to use the language of the Report already referred to, "it is enough to say, that they have taken place without warrant, and solely at the discretion of the officers themselves who were interested in the exaction ; that the great impropriety of the practice thus introduced, is acknowledged in the returns and examinations of the

present officers, and that the usage, if it can be so called, thus recently commenced, cannot of itself afford any legal or valid ground for the continuance of the arbitrary charges thus made. . . . If it were necessary to give any further reason against the practice, besides the want of due authority, it is obvious that many irregularities naturally result from it, in addition to the exaction of fees higher than the legal rates. For, by the evidence of the accounts found in the Office, it is proved that grants of certain armorial distinctions, particularly that of wearing supporters, have been made, where the party applying had avowedly no right thereto, by heraldic law or custom, but received it as a concession on payment of a higher rate of fee--that is to say, of a corresponding price. In so far, therefore, as it is of any importance that the rules established by law, or the custom of the Heraldic Colleges in the grant of arms should continue to be observed, till altered or superseded by competent authority, the conduct of the officers in question was without excuse, having held out a principle of distinction which set these rules altogether aside, or rendered it their own immediate interest to disregard and violate them."[1]

Since the year 1822, however, a considerable reduction has been effected in the fees of the Lyon Office, and the extraordinary distinction relative to supporters is no longer observed. The present charge for an ordinary Patent of Arms is usually about £42, while for a Grant with supporters, the fees amount to sixty guineas. In

[1] *Report on the Office and Court of the Lord Lyon* (1822), pp. 18, 19.

the case of a Matriculation, the charge is about £14, and with supporters, £20. As a general rule, supporters are only granted to those persons who are believed to be strictly entitled to them by the heraldic practice of Scotland; but the Lord Lyon also considers himself warranted in assigning them in certain special cases, of which an interesting example may be given in the grant of armorial ensigns to Mr. Lockhart Scott, the grandson and representative of the author of *Waverley*. The apportionment and details of the fees at present payable for grants and matriculations are set forth in the following tabular statement:—

	Grant.		Matriculation.	
	Without Supporters.	With Supporters.	Without Supporters.	With Supporters.
Lord Lyon,	£8 8 0	£21 0 0	£3 3 0	£4 4 0
Lyon-Depute,	5 5 0	8 0 0	1 11 6	2 2 0
Lyon-Clerk,	5 5 0	8 0 0	1 11 6	2 2 0
Herald Painter,	2 2 0	4 4 0	2 2 0	4 4 0
Stamp,	10 2 6	10 2 6	0 2 7	0 2 7
Seal with Liveries,	1 1 0	1 1 0	...	...
Fees of Office on presenting Petition, expeding Patent, engrossing the Record, and other trouble,[1]	9 16 6	10 12 6	5 14 5	7 5 5
Total,	£42 0 0	£63 0 0	£14 5 0	£20 0 0

The earliest official notice on the subject of fees for recording Genealogies occurs in the following *notan-*

[1] Including, in the case of Matriculations, £1, 14s. 6d. for Certificate and Vellum, and 10s. 6d. for Extract. In the case of Grants, the stamp is payable under the provisions of the Act 55 Geo. III. c. 184.

dum appended to the "Table of Fees," dated 1760, already referred to :—"Birth-Brieves, Genealogies, Trees and Descents of Families, discretionary." The details of the fees paid at the registration of eight Birth-Brieves and Genealogies, between 1770 and 1775, and of four others, between 1796 and 1819, will be found in the Appendix to the Report of the Commissioners on the Office and Court of the Lord Lyon, in 1822. The lowest charge is £10, 18s., and the highest £52, 10s., giving an average of nearly £25. No record appears to have been kept of the fees paid for the registration of pedigrees between 1775 and 1796. According to the evidence furnished to the Commissioners, in 1821, by Mr. David Clyne, Interim Lyon-Clerk, "the fees for recording genealogies were about forty guineas at and subsequent to 1814, but, in general, these fees were proportioned to the extent of the trouble and investigation in each case; and he has known as much as sixty, seventy, or one hundred guineas, paid as the fees of a genealogy."[1]

At the date of the Commissioners' Report, the fee charged for an extract or certificate from the Register of Arms was 10s. 6d., besides the stamp. For a painted sketch of arms, including the use of the Register or search, the fee amounted to £1, 1s., besides the charge of the herald painter. For a search, in ordinary cases, the charge was 5s.; and in extraordinary searches, where there was more than usual trouble, the fee was "charged according to time, at the rate of payment to

[1] *Report on the Office and Court of the Lord Lyon*, Appendix No. IV.

law agents in such cases, besides the use of the Registers."[1] The present charge for an extract is at the rate of 10s. 6d., exclusive of the stamp, for the first ordinary legal sheet (of two pages), and 3s. for every other sheet; while the fee for a particular search is 5s., and for a general search £1, 1s., access being given, in the latter case, to all the Records.

In terms of a grant by George II. under the Great Seal, in 1731, the Lord Lyon, Heralds, and Pursuivants receive certain fees on the creation of British Peers and Knights, as a compensation for the loss of the fees payable, before the Union, at the creation of Scottish Nobility, Knights Baronets and Bachelors. The amount of these fees will appear from the following Table :—

	Lord Lyon.	Each Herald.	Each Pursuivant.
Prince of Wales, . .	£53 6 8	£5 6 8	£3 11 1¾
Duke or Duchess, . .	26 13 4	2 13 4	1 15 6½
Marquis or Marchioness,	20 0 0	2 0 0	1 6 8
Earl or Countess, . .	13 6 8	1 6 8	0 17 9½
Viscount or Viscountess,	10 0 0	1 0 0	0 13 4
Baron or Baroness, . .	8 0 0	0 16 0	0 10 8
Knight of the Thistle, .	70 0 0	5 0 0	3 0 0
„ „ Garter, .	2 10 0	0 12 0	0 8 0 [2]
„ „ Bath, . .	0 0 0	0 12 0	0 8 0
Knight Baronet, . .	2 10 0	0 13 4	0 8 10½
Simple Knight, . . .	2 10 0	0 12 0	0 8 0

[1] *Report on the Office and Court of the Lord Lyon*, Appendix, No. IV., p. 25.

[2] The fees pertaining to Knights of the Thistle, Garter, and Bath are not embraced in the royal grant, nor was it shown to the Commissioners "by what express sanction they were established."—*Report on the Lyon Court* (1822), p. 31.

The total receipts of the Lord Lyon, on the creation of British Peers and Baronets, during the three years ending 5th April 1800, appear to have been £427, 10s. 3d., being an average of about £142; while his receipts from the same source, during the three years prior to 1821, amounted to only £157, 4s. 9d., or an average of £52, 8s. 3d. The average annual receipts of each of the Heralds from fees, during the four years ending 1820, amounted to £18, 6s. 8d., while the gross receipts of the Pursuivants, on the average of the fifteen years ending October 1821, amounted to £16, 11s. 2d., not deducting Exchequer fees and stamps. When there is a vacancy among these officers, the relative fees are divided equally among the rest during the period of the vacancy, which sometimes continues for a considerable time. Again, the total fees received by the Lord Lyon, Heralds, and Pursuivants, collectively, on the occasion of the creation of British Peers and Knights, during the ten years ending 5th April 1855, amounted to £1155, 5s. 2d., giving an annual average of £115, 10s. 5d.

The Lord Lyon receives various fees on the admission of Messengers-at-Arms, besides certain payments from the Heralds and Pursuivants "as a consideration" for their appointments. The sum paid by a Herald is believed to be about £315, and by a Pursuivant about £210.[1] It also appears to have formerly been the custom for the Lyon-Clerk to pay a douceur to the Lord Lyon for his appointment; and on one occasion

[1] *Report on the Office and Court of the Lord Lyon*, p. 22.

the sum of £360 was paid by that official to the predecessor of the present Lord Lyon.[1] Among other suggestions relative to the regulation of the Lyon Court, the Commissioners recommend "that provision should be made for preventing the sale of any office to be held hereafter, in that as in other Courts."[2]

By authority of a warrant under the Privy Seal of Scotland, dated 25th July 1796, the Lord Lyon receives a salary of £600 *per annum*, payable on the civil establishment for Scotland, and subject to the usual deduction of one shilling and sixpence in the pound. The said warrant was issued on the appointment of the late Earl of Kinnoull to the office of Lord Lyon, with survivorship to his son, the present Earl, then Lord Dupplin. Before the year 1796, the salary of the Lord Lyon was only £300; and the increase is thus accounted for in a return made to the House of Commons from the Lyon Office in 1798:—"The reason of this augmentation seems to have been that the office was formerly held by commoners, and was then conferred upon a nobleman of the first rank, and the salary had not been augmented since the Union. On the other hand, by the discharge of funeral solemnities in Scotland, and by the abolition of Episcopacy in that kingdom, the large fees from thence

[1] *Report on the Office and Court of the Lord Lyon*, p. 23.

[2] *Ibid.* p. 43. At an earlier part of the same Report (p. 24), the Commissioners make the following statement:—"We have had more than one occasion, in the course of our Reports, to express our opinion, that the practice of selling any office in a Court of Justice, particularly where the officer by whom the purchase is made has a right to receive fees from the suitors, is irregular and inexpedient. The grounds of this opinion are too obvious to call for repetition."

arising to the Lyon Office were totally annihilated; and by a new grant of fees, made by his late Majesty King George II., in 1731, to Lord Lyon and his brethren the Heralds, in order to compensate to them the loss of fees upon the creation of Scotch Nobility, Knights Baronets and Bachelors, sustained in consequence of the Treaty of Union, which precluded all such creations thereafter, the fees so established by King George II. were one full third less than those which had been paid upon similar creations before the Union."

We learn from the 16th chapter of the MS. "Account of the office of Heraulds," already referred to, that "since the raign of King Malcolme IV., the King of Armes and his under-officers hes had the upermost habit for their fee of all Princes, Dukes, Marquesses, Earls, Lords, and Knights, of every Archbishope and Bishope (before the reformatione of religione), the lyk or the utter value of them, with what further thair owne noble dispositions moved them to of free gift, forby what was their dew. Ancientlie, at funerals and interments of noble personages, they had the cloaths and caprones (*chaperons?*) of mourning litters and black hangings, with a compleit suitt of mourning. They had also at marriages and weddings of Kings, Queins, Duiks, and Princes (the king's children), the clothes of the same prince, which he wore that day of their marriage, with a largess in money alsoe. Lykwais, at the christning of the king's children and princes, apperteined to them the usuall salt siller, bason and evar, with all the mantells, swathling-bands of the best, the warming-pan, the cloth of estaitt

and pillowes for the chyld's baptising; and after the christ ning they hade right to three several largess in money."[1]

Neither the Lyon-Depute nor the Lyon Clerk receive any salary from the public, their emoluments consisting entirely of fees. At one time, however, the Lyon-Depute appears to have received the sum of £50 yearly from the Lord Lyon.[2] Besides the fees payable at the matriculation of arms, the Lyon-Clerk receives various payments in connexion with the admission and control of Messengers-at-arms. The salaries of the Heralds amount to £25 each, and of the Pursuivants to £16, 13s. 4d.

The total annual average of fees received by the Lord Lyon, during the three years prior to 1820, appears to have been as follows :—

From Matriculations of Arms, ...	£346	15	10
Recording Genealogies, ...	3	3	0
[This is stated to be the average of seven years.]			
Admission of Messengers, ...	218	17	0
Annual payments by do., ...	73	6	0
Creations of Peers and Knights in London, .	52	8	3
[The average of the years 1818, 1819, 1820.]			
Annual amount of fees,[3] . .	£694	10	1

The fees received by the Lyon-Depute at the matriculation of arms, taken on an average of the three years

[1] Adv. Lib. 34. 3. 22. The same chapter contains an account of the "Fees antientlie belonging to the Scotts Kings of Armes, Heraulds, and Pursevants," embracing some curious details respecting the lands and pecuniary allowances granted to them by Malcolm II., Alexander III., Robert I., and subsequent monarchs. Chap. xvii. relates to the "Fees now belonging to the Scotts King of Armes, and to his under-officers, Heraulds and Pursevants, in generall and particular," the substance of which is given by Nisbet in the second volume of his *System of Heraldry*, part iv. p. 167.

[2] *Report on the Office and Court of the Lord Lyon*, p. 23.

[3] *Ibid.* p. 22.

prior to 1820, amounted to £88, 18s. yearly, while the total fees received by him on an average of five years preceding 1819, appear to have amounted to £145. The total fees received by the Lyon-Clerk at the same period, seem to have been at the rate of about £420 *per annum*, rather less than the half of that sum having been derived from the matriculation of arms, extracts, and searches. At the date of the Commissioners' Report, the average annual emoluments of the Herald Painter, exclusive of sketches, amounted to about £14 *per annum*. His allowance, at that time, for an uncoloured sketch was 2s. 6d., while he received 10s. 6d. for a coloured sketch without, and £1, 1s. for the same with supporters.

The total receipts of the various officers from all sources, during the years ending 5th January 1827, 1828, 1831, and 1832, will appear from the following Abstract of a Return furnished to the King's Remembrancer of Exchequer :—

	Year ending 5th January												Average.		
	1827.			1828.			1831.			1832.					
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
Lord Lyon, .	1076	5	10	1694	16	6	795	17	10	870	8	6	1109	7	2
Lyon-Depute,	49	6	6	41	12	0	37	8	0	50	5	0	44	12	10
Lyon-Clerk[1] .	504	17	3	555	3	10	537	1	2	591	12	7	547	3	8
Herald Painter	32	12	6	18	11	0	22	18	0	29	18	6	26	0	0
Heralds and Pursuivants	196	12	9	505	17	9	127	16	0	781	4	4	402	17	8
Total, .	1859	14	10	2816	1	1	1521	1	0	2323	8	11	2130	1	4

[1] The receipts of the Lyon-Clerk are subject to a large deduction for stamp-duties, salary to Lyon-Clerk Depute, office rent, stationery, etc.

It would appear, moreover, that the sums here stated as the receipts of the Lyon-Clerk embrace the fees payable to the Lyon-Depute and the Herald Painter, which are thus *twice* taken into account.

Of late years, the average total annual receipts of the different officials are understood to have been about the following :—

Lord Lyon,	£1180
Lyon-Depute,	70
Lyon-Clerk,	400[1]
Herald Painter,	30
Heralds and Pursuivants,	450

In the "Proposal for the further regulation of the Lyon Court," at the end of the Report to which we have so frequently referred, the Commissioners take exception to the exercise of discretionary powers in granting and matriculating arms, and the consequent abuses with respect to the nature and amount of fees. They recommend that, instead of being paid by fluctuating fees, the several officers should receive a fixed annual amount payable on the civil list, in accordance with the following scale :—

Lord Lyon,	£1000
Lyon-Depute,	300
Lyon-Clerk,	400

To meet these salaries, they further suggest that a new regulation of the fees should take place, calculated to produce not less than £1800 *per annum*, so as to leave a surplus fund of £100 for defraying the expenses of prosecutions carried on by the Procurator-Fiscal ; and that the whole of these fees should be made payable to Exchequer. The Commissioners acknowledge that such an arrangement would imply an increase of the rates

[1] These receipts are subject to all the deductions specified in the note on the preceding page, with the exception of the fees paid to the Lyon-Depute and the Herald Painter.

established prior to the year 1804; "but this," they add, "does not appear to us a sufficient objection, taking place, as it does, in matters with respect to which it is not an object, from considerations connected with the persons by whom they are paid, or the nature of the business for which they are chargeable, that they should be restricted to their present amount." It is hardly necessary to state, that this suggestion has not been carried into execution, and it is very doubtful whether it was ever seriously entertained. For some time past, there has been a decided tendency to substitute salaries for fees in the payment of public functionaries; but in certain instances, the latter mode of remuneration is, upon the whole, the most expedient, and in the case of the Lyon Office, we incline to think that such an alteration would not be desirable.

There are various allusions to the subject of fees in the report of the case of the procurator-fiscal of the Lyon Office *v.* Murray of Touchadam.[1] The interlocutor of Lord Hailes (13th February 1776), which "upon the whole assoilzies" the defender, expressly reserves "to the procurator-fiscal to charge the said William Murray to matriculate his armorial bearings in the Register of the Lyon Court, in terms of the Statute 1672, and to pay the fees exigible from a baron, and no more, as the Statute bears;" and also reserves "to the officers of court to exact whatever farther sum may be judged reasonable, in case the said William Murray shall incline to be furnished, not only with a blazoning, in terms of

[1] Br. *Supp.* v. 490, and Morison's *Dict.* 7656.

the Act, but also with a painting in water-colours and other ornaments,—these being things which the Lord Lyon is not bound by law to provide without a suitable remuneration." On advising a reclaiming petition and answers, the Lords adhered to the interlocutor of the Ordinary, and refused the petition, except as to the fees exigible on matriculations ; as to which, they remitted to the Ordinary to hear parties further, and to do as he should see cause. In reasoning, the Lords made a distinction betwixt a right to wear arms and a matriculation. In the *first*, immemorial possession would presume a grant even from the sovereign himself to wear them ; and many families in Scotland had right to arms before the Act 1592 ; so did not derive right to wear them from the Lyon in virtue of that Act of Parliament. But as to *matriculation*, in consequence of the Act 1672, that was requisite in every case, and is so found by the Ordinary in this case. The fees, no doubt, are fixed by the Act 1672, but the Lord President (Dundas) thought that, as in other regulations of fees about that period, practice and change of times had produced an alteration, so this might be the case here, and therefore he proposed to remit that point to the Ordinary to hear further, which was agreed to. It was alleged by the pursuer that subsequent usage had derogated from the Statute of 1672, and had established higher fees, in support of which eleven instances were condescended on, in which higher rates had been paid within the twenty years preceding. On the other hand, it was answered by the laird of Touchadam, that the Statute only regulates the fees

where the right to the arms to be matriculated is prior to 1672, as in the present case ; and that the instances adduced by the pursuer, being new grants obtained from the Lyon, cannot establish a contrary usage, and are, moreover, too few and too recent to determine the legal fees in any case. On the report of Lord Hailes, 24th June 1778, the Court found, in accordance with the pleading for the defender, that the Lyon can exact no higher fees for Mr. Murray of Touchadam's arms than ten merks, being the fees exigible, by the Statute 1672, from a baron. But while the Lyon was found liable for the other expenses of the litigation, "they thought the plea, so far as concerned the matriculation fees, not improper, as the Statute was so ancient, and the practice for at least twenty years against it, although not uniform."

It would appear, therefore, that an important distinction may be legally made in the rates charged for the matriculation of armorial bearings. In the case of the representatives of families entitled to use heraldic ensigns before the year 1672, these rates are nearly nominal, although, no doubt, a reasonable extra charge may be made, should an "illumination" of the arms be also furnished to the party matriculating. But, on the other hand, in the case of persons applying for new grants of arms, it is not very easy to determine what fees may be properly demanded by the authorities of the Lyon Office, who, besides other specialities, may naturally plead "use and wont" in justification of their higher charges. Even in the Touchadam case, the Lord President considered that "practice and change of times" might have pro-

duced some alteration in the fees of the Lyon Office, and although that opinion did not eventually affect the judgment of the Court on the general question before them, in awarding expenses they made a special exemption, in the pursuer's favour, of the plea respecting the charge for matriculation.

It is certainly very desirable that the fees of the Lyon Office should be distinctly and authoritatively settled, and there can be no doubt that the abuses which are universally admitted to have been practised at different periods by our heraldic officials, have proved a very serious obstacle to the more general matriculation of armorial bearings. Without going so far as to maintain, on the strength of the Touchadam decision, that, in the middle of the nineteenth century, the representatives of ancient families entitled to use heraldic ensigns prior to 1672, may insist on having their armorial bearings duly entered in the Lyon Register, on the payment of five or ten Scottish merks, it appears to be perfectly fair and proper that some substantial distinction should be made in their favour. Such persons may unquestionably allege, as indicated by the Lord Ordinary's interlocutor in the case of Touchadam, that the ensigns which they have inherited with their names were, in all probability, at one time regularly recorded; and, moreover, that so soon as the procurator-fiscal of the Lyon Office thinks proper to prosecute, they are quite ready to matriculate, in terms of the Statute of Charles II. But even in their case, the usage of a long series of years might, without much hardship, be urged in justification of an increase of

fees, and probably would not now be objected to by the parties themselves. On the other hand, in the case of grants of new arms, a comparatively larger scale of fees might with great propriety be adopted; and in both cases the rate of payment by cadets, at matriculation, ought to be proportionally modified.

The fees at present charged in the Lyon Office are very much below those of the English College of Arms. An Order was issued by the Earl Marshal of England in the beginning of the sixteenth century, about twenty-five years after the institution of the College of Arms, in terms of which the expense of acquiring heraldic distinctions was regulated by the degree of the persons on whom they were conferred, in accordance with the following scale :—

Bishops, Abbots, and Priors of great possessions,	£10	0	0
Abbots and Priors of "mean" possessions,	6	13	4
Churchmen with benefices of 100 markes yearly,	6	0	0
Incorporated Crafts,	10	0	0
Temporal men with land or fees of 100 markes yearly,	6	13	6
Do. do. under 100 markes yearly,	6	0	0
Persons with 1000 markes in moveable goods,	6	0	0
Persons with 1000 markes in land and goods,	5	0	0

As in Scotland, the Officers of the English College of Arms have certain stipends and fees on the creation of Peers, Baronets, and Knights, but their principal income is derived from fees for professional advice and assistance in tracing pedigrees; for the registration of nominal and armorial additions and distinctions; and for grants of coat armour. At present, the total fees

and expenses (including £10 of stamp duty) payable for an ordinary grant of arms, at the English College of Heralds, amount to £76, 10s. Supporters are granted in separate patents, the charge being £35 in the case of newly-created Peers, and £55 in the case of Knights Grand Crosses of the Bath. Cadets of families bearing heraldic ensigns are entitled to use their ancestral arms as a matter of right, by virtue of their descent; and are not compelled to matriculate as in Scotland. In the case of a *voluntary* application, the total fees and disbursements on obtaining a Royal license for a change of name (including £10 of stamp duty) amount to £54, 13s.; the cost being £94, 13s. (including £50 of stamp duty), where the change happens to be made *in pursuance of a will* or other deed.[1] Where the arms, as well as the surname, are assumed—provided they have been already recorded in the Books of the College—the charge for their exemplification is £48, 17s. 6d., in addition to the fees on the license for the change of name.

In Ireland, the fees payable on a *grant* of arms amount to thirty guineas, and on a *confirmation* (or matriculation ?) to ten guineas.[2]

We have already stated that in Scotland, exclusive of the £10 stamp, the total fees for an ordinary grant of arms amount to £32, while the cost of a matriculation is only about £14. Everything considered, a lower

[1] The various stamp-duties are payable under the provisions of 55 George III. c. 184 (11th July 1815).

[2] For a description of the records in the office of Ulster King-of-Arms, Dublin Castle, see Sir Bernard Burke's *Vicissitudes of Families*, p. 227, *et seq.*

rate of charge could not reasonably be suggested, at least in the case of new arms ; but in the case of the representatives and cadets of families having an undoubted right to armorial ensigns before the year 1672, a modification of the respective fees might perhaps prove a judicious arrangement.

SECTION V.—PENALTIES FOR THE UNLAWFUL ASSUMPTION OF ARMORIAL BEARINGS.

The Penalties imposed on the unlawful use of armorial ensigns by the Statutes of 1592 and 1672 are :—

1. Escheat to the Sovereign of all the goods and gear on which the said ensigns are engraven, painted, or otherwise represented ; and,

2. Payment of one hundred pounds, *toties quoties*, to the Lyon.

Failing payment of the fine, as already stated, the Act of 1592 ordains incarceration in the nearest prison "during the pleasure of the Lyon ;" but this alarming alternative is not repeated in the later Statute, which also remits any penalties that may have been incurred "before the proclamation to be issued thereupon."

The Preamble of the Act of 1672 makes very pointed reference to the prevailing irregularities with respect to the unlawful assumption of Arms, not only on the part of persons who should not bear any such distinctions, but also on the part of those who may legally bear them, and who either usurp the ensigns of their Chief without marks of difference, or adopt arms which were not carried by their predecessors. After ratifying the former Statute

of 1592, the Act ordains that, with a view to its more vigorous prosecution, "Letters of publication of this present Act be directed to be executed at the market-cross of the head Burghs of the Shires," etc., enjoining certain procedure, with reference to their arms, on the part of "all and sundry Prelates, Noblemen, Barons, and Gentlemen" who use any signs-armorial. The following is a copy of a Messenger's printed Charge, requiring compliance with the injunction of the Letters in question, a few years after the passing of the Statute:—"I, —— ——, Messenger, by virtue of Letters of Horning raised at the instance of Sir *Charles Areskine* of *Cambo*, Knight Baronet, Lyon King-of-Armes: in our Soveraign Lord's Name and Authority, commands and charges you, —— ——, to bring or send an accompt to the Complainer, or his Clerk in his Office at *Edinburgh*, of what Signs or Arms-armorial ye are accustomed to bear and use; and whether ye be descended of any Family the Arms whereof ye bear, and of what Brother of the Family ye are descended, with certificats from persons of Honour, Noblemen, and Gentlemen of Quality, anent the verity of your having and wearing these Arms, and of your descent as aforesaid, to the effect the Complainer may distinguish these Arms with congruent differences, and matriculate the same in his Books and Registers, and give Extracts of the Blazoning of the saidis Arms under his hand and seal of office; and also to pay to the Complainer the sum of an hundred pounds Scots, as the penalty already incurred by you through using your Arms any manner of way, after expiring of

year and day from the date of the Proclamation under written, issued upon the Act after specified, conform to an Act of Parliament, entituled 125 Act of K. *James* the Sixth, Parl. 12, anent the Office of the Lyon King-of-Arms, and also conform to an particular Act of Ratification made in the first Session of the second Parliament, dated 23 *September* 1669. And to the letters of publication made upon the twenty-one Act of the third Session of the second Parliament of K. *Charles* the Second, after publication of year and day is expired, conform to the Principal Letters in all points, within six dayes next after this my Charge, under the pain of Rebellion, and putting you to the Horn; wherein if ye failzie, I will denounce, etc., conform to the saidis Letters, bearing date, The fourth day of June 1675.—*Ex deliberatione Dominorum Consilii.*"[1]

After referring to the statutory pains denounced against the bearers of "false arms," the rescinded Act of 1662 expressly declares "that no painters, masons, gold smiths, wrights, gravers, or any other of that nature, take

[1] This Charge is pasted on the inside of one of the boards of a folio MS. in the Advocates' Library, containing "Illuminate Arms" by J. Sawers, Herald Painter in the reign of Charles I. (31. 4. 4.)

The undue assumption of arms appears to have been checked in England as early as the beginning of the fifteenth century, when an edict on the subject, to which we have already referred, was promulgated by Henry V. In the Order issued by the Earl Marshal of England, in 1509, the assumption of armorial ensigns without the authority of the College of Heralds is interdicted, "upon pain of imprisonment and fine at the King's pleasure." Again, in the year 1555, a Royal Commission of Visitation was directed to Clarenceux King-of-Arms, in which he is enjoined "to correct all false crests, arms, and cognizances;" and a few years later, the same officer was invested with similar authority, besides being empowered to levy fines from delinquents at his will and pleasure.

upon them to grave, cut, paint, or carve any arms whatsoever but such as are approven by the Lyon King-of-Arms." The necessity for such an injunction is acknowledged by Nisbet in his remarks upon the frequent custom of persons assuming coats-armorial to which they have no legal right, and charging them with one of the minute or temporary heraldic differences, by way of distinction. "We have reason to complain," he says, "of our goldsmiths, engravers, painters, masons, and carpenters, who are very ready, although altogether ignorant of the science, to give to those who employ them in any piece of work, coats-of-arms with some of the foresaid differences; not only to those who have right to carry arms, but even to some who ought not to be honoured with armorial bearings, although they be of some ancient surname. To which irregular and unwarrantable practice I wish the Lyon King-at-Arms would put a stop, by putting the Acts of Parliament in execution against such persons, by which the arms of our old gentry will be better known and more easily distinguished from new upstarts."[1]

The irregularities in question do not appear to have been confined to this portion of the kingdom. In the letters-patent issued by Charles II., in 1682, authorizing an Armorial Visitation, it is declared that "no painter, glazier, goldsmith, graver, or any other artificer whatsoever he or they be, shall take upon them to paint, grave, glaze, carve, cut, devise, or set forth, by any ways or means, any manner of arms, crests, cognizances, pedigrees, or other devices appertaining to the Office of Arms,

[1] *System of Heraldry*, vol. ii. part iii. p. 17.

otherwise or in any other form or manner than they may lawfully do, and shall be allowed by the said Clarenceux, his deputy or deputies, according to the ancient laws and statutes of arms." The same royal ordinance confers full power upon Clarenceux King-of-Arms and his deputies "to correct, control, and reform all manner of arms, crests, cognizances, and devices, unlawful, or unlawfully usurped, borne, or taken by any manner of person or persons, contrary to the due order of the law of arms, and to reverse, pull down, or otherwise to deface, as well in coat-armour, helm, banners, standards, pennon, and hatchments of tents and pavilions, as also in plate, jewels, paper, parchment, windows, gravestones, tombs, and monuments, or elsewhere, wheresoever they be set or placed, whether they be in shield, escutcheon, lozenge, square, roundle, or otherwise, contrary to the ancient laws, customs, rules, privileges, and orders of arms."

There can be no doubt that, both in Scotland and England, many such irregularities have long been practised; but besides goldsmiths, painters, and engravers, there is a numerous class of pretenders, who profess to "procure" arms, and whose advertisements not unfrequently occupy a very prominent position in the periodicals of the day.[1] With a smattering of heraldic knowledge,

[1] As examples of recent announcements, we may give the following:—"For Family Arms.—Send Name and County to the Royal Heraldic Studio and Library; in a few days you will receive a correct copy of your Armorial Bearings. Plain sketch, 3s.; in Heraldic colours, with written description, 6s.; large size, 12s. Family Pedigrees, with original Grant of Arms, to whom and when granted, the origin of the Name, all traced from authentic records—Fee, Two guineas."

"Heraldic Queries answered; *Family Arms found*, and every infor-

they have little difficulty in providing any applicant with what they coolly choose to term a "suitable" coat of arms, which *imposing* invention is forthwith shamelessly exhibited on the panels of his carriage, the covers of his dishes, the boards of his books, and the ring upon his finger; and, in the eyes of the uninitiated, he is as much a "gentleman of coat-armour" as any of his neighbours, even although they may be able to instruct their descent from the days of Malcolm Canmore.[1]

According to the *notandum* annexed to the "Table" of Matriculation Fees, dated 1760, "to force nobility and gentlemen to matriculate, the Lyon causes execute a precept in the fiscal's name, and on the dependence, arrests the equipages on which the arms are painted." Again, in the language of the Commissioners' Report, "it is in the name of the procurator-fiscal of the Lyon Court, that any proceedings are conducted which are competent before the Lord Lyon, by the Statutes for compelling persons to matriculate their arms, by seizing or procuring forfeitures of the furniture, or articles on which arms are

mation afforded. Drawing of Arms, 2s. 6d.; Painting ditto, 5s.; Book-Plate Crest, 5s.; Arms, etc., from 20s.; Crest on Card-Plate and one hundred Cards, 8s.; *Queries answered* for 1s. Saxon, Mediæval, and Modern Style Book-Plates. The best Authorities and MS. Books of thirty-five years' practice consulted."

[1] In the year 1597, the Earl of Essex, Earl Marshal, issued a warrant for the apprehension of one W. Dakyns, "a notable dealer in arms, and maker of false pedigrees, for which fault, about xx. years past, *he lost one of his ears*." The warrant sets forth the names of nearly one hundred families, chiefly in the counties of Essex, Hertford, and Cambridge, for whom he compiled spurious pedigrees. So late as the year 1727, an impostor, named Robert Harman, pretending to be a herald, was prosecuted by the English College of Arms at the Suffolk quarter-sessions held at Beccles, and, on being convicted, was punished with fine, imprisonment, and the pillory.

engraved, when no proper matriculation has taken place." The Report, however, goes on to say "that the exercise of this power on the part of the Lord Lyon, though it is conferred by Acts of the Scottish Legislature, has been seldom resorted to, whether from a consideration that the enforcement of his right would be felt as a harsh and oppressive act, or that the relaxation and latitude which have been introduced into the later practice of the office, in the grant of arms, may have rendered the observance of the rules more difficult."[1] We learn also from the evidence of Mr. James Williamson, who held the office of procurator-fiscal in 1821, "that there have been no proceedings at his instance since his appointment (in 1806), in matters connected with armorial bearings; that in as far as he knows, there were none such in the time of his predecessor, and that he would not therefore be inclined to institute proceedings in a case of that nature, without express authority from the Lord Lyon or his Depute."[2]

Of the alternative reasons, suggested by the Commissioners, why the exercise of the corrective power, which is distinctly conferred upon the Lord Lyon by the Acts of Parliament, should so seldom have been resorted to, there can be very little doubt that the *second* is by far the most satisfactory. But for the "relaxation and latitude" which is universally admitted to have been introduced into the practice of the Lyon Office in the grants of armorial bearings, the enforcement of the statutory rights would never have been considered either

[1] *Report on the Lyon Court*, 1822, p. 29.
[2] *Ibid.* Appendix No. v. p. 52.

"harsh" or "oppressive," but, on the contrary, would have met with the unqualified approbation of all reasonable members of the community. How far any special right or privilege could be affected by a dereliction of official duty, might perhaps at one time have proved a question of no very easy solution; but now that the authorities of the Lyon Office have evinced a laudable desire to carry the various legislative provisions into execution, as well as to correct any abuses that may have been gradually introduced, there seems to be no reason whatever why the statutory pains and penalties should not be more rigidly enforced. And, most assuredly, many cases of unwarrantable assumption are daily presenting themselves, which loudly call for the interference of the Lord Lyon. Within a gunshot of the Register House, numerous instances might be pointed out of landowners and fundholders, lawyers and physicians, soldiers and sailors, merchants and shopkeepers—individuals, in short, belonging to every rank and profession—who, without being able to plead regular inheritance or any other justification, unscrupulously adopt and wear the most elaborate heraldic insignia. The very cabmen on our streets have the effrontery to emblazon their vehicles with armorial devices, among which may occasionally be recognised the escutcheon of Clan Domachie and the ensigns of Lochiel![1] Less than a

[1] Even William Campbell, the worthy piper of the Grassmarket, displays the boar's head of his ducal chieftain on the panel of his velocipede, with which every almsgiver in the Scottish metropolis must have long been familiar. It would appear, moreover, that the light-fingered fraternity extend their patronage to the mysteries of the noble science. A

hundred years ago, the indignant chieftains would have inflicted a very summary punishment upon these daring offenders, by thrusting a red hot poker through the offending panels, without waiting for the interposition of the Lyon King-at-Arms. Nor is this undisguised assumption confined to the metropolis. In every corner of the kingdom the same universal system of appropriation is now so much in vogue, that we are reminded of the story of the English diplomatist who happened to send his London chariot to the coachmaker's, during his residence at New York. On calling shortly afterwards, he was somewhat astonished to discover his ancestral shield and crest figuring upon half a-dozen Yankee gigs and dog-carts; and having asked for an explanation, he was immediately informed, with the most perfect *sang froid*, that "the pattern seemed to be very much admired"!

The unlawful assumption of armorial ensigns appears to have occupied the attention of the authorities of the Lyon Office about the middle of last century. Along with an intimation relative to messengers at-arms, the

recent writer informs us, that "there is a vagabond heraldry by which every vagabond has his crest, and every profession its coat-of-arms; and the vagabond who should assume his neighbour's quarterings would atone for it in blood. His crest may be either out of the world of animals or Euclid—a horse or a parallelogram; sometimes a cross wound round with a serpent; perhaps a visor over a fox. . . . The thieves' arms are a *key* pierced by an arrow; in the beggars', the arrow pierces a *heart*; it figures also in the gamblers' through three *dice*. The arrow, surmounted by a black globe, signifies fear of capture; a stroke with a twisted line about it signifies an exploit; a line attached to this points out the way the writer has gone; the hooks above the line are for men, those below for the women; the cypher above for the leader's children—he being marked by his crest; those below for the children of the rest."—*Good Words*, December 1862.

following announcement is two or three times repeated in the *Caledonian Mercury* for the year 1758 :—

"*By order of the Hon. John Campbell-Hooke, Esq., Lyon King-of-Arms.*—All such persons as assume to themselves armorial bearings, without matriculating in the Lyon Books, will be prosecuted according to law ; and all plate, equipages, and others, whereon such arms are painted or engraven, will be seized as forfeited in terms of the Acts of Parliament thereanent. Robert Donaldson, *Clerk-Depute.*"

In the year 1771, a much more detailed commination was repeatedly inserted by the same Lord Lyon in all the newspapers published in Scotland, and forms No. II. of the Appendix to the Petition of the Procurator-Fiscal of the Lyon Court, a few years afterwards, in the action, already referred to, against the laird of Touchadam.

Again, about thirty years ago, a Notice on the same subject was issued in the following terms :—

"It having come to the knowledge of the Lord Lyon that many Individuals are bearing and using Armorial Ensigns without due authority, and that many Cadets of Families are using and carrying the Arms appropriated to the Houses from which they descend, without any proper difference authorized by the Lord Lyon, and properly matriculated in his Lordship's books, —Notice is hereby given, that all persons who have assumed or shall assume to themselves Armorial Ensigns or Bearings, without official license and authority so to do, are rendering themselves liable to the Deletion of their Arms, and the Confiscation of all plate,

equipages, and others whereon such Arms are engraved or depicted, in terms of the different Acts of Parliament, investing the LORD LYON with the powers of regulating the wearing and bearing of all Armorial Bearings in Scotland.—By order of the Right Hon. the LORD LYON, King-of-Arms, A. MACDONALD, *Lyon-Clerk Depute.*"

"LYON OFFICE, EDINBURGH,
28th April 1832."

Similar notices have been published, from time to time, since the year 1832, the latest announcements having been pretty frequently repeated in the columns of the newspapers only two or three years ago. It does not appear, however, that any formal proceedings have ever taken place in consequence of these intimations, although it is understood, that an occasional "remonstrance" has been most considerately resorted to, and in several instances with the desired effect. How long such forbearance may be practised must, of course, depend on the feelings and ideas of the authorities themselves; but if they have any real desire to fulfil the duties of their office, there appears to be no good reason why they should not exercise with firmness and consistency the powers with which they have been invested. In all such cases, the greater the forbearance, the greater the abuse; and the longer the irregularities in question are overlooked, the inclination to check them will probably become the less powerful. Let the officials select a few good subjects in the first instance, and after a beginning has been fairly made, let them not rest satisfied until the pages of the Lyon Register

exhibit the armorial bearings of all the "well-deserving persons" in the community. Among these we should, of course, expect to find our principal modern landowners, along with the merchant princes of the West, and the leading professional men of the metropolis. As the penal provisions of the Statutes have so long been disregarded, a reasonable warning ought assuredly to be given before "deletion" or "confiscation" is carried into effect; and if approached in the proper spirit, we cannot suppose that many of the *usurpers* in question would long hesitate between the matriculation of their Arms on the one hand, and the surrender of their plate, equipages, etc., to the tender mercies of the Lord Lyon, on the other. In a very large number of cases, the pretension to the assumed ensigns cannot be vindicated even on the ground of long usage; and, moreover, as Dallaway truly observes, "assumption of ever so long standing cannot establish right, so long as an institution subsists, to the official decisions of which these claims are at all times amenable, and which still retains power to annul or confirm them."

The extraordinary laxity of our practice in matters of Arms and Pedigree has long formed a subject of well-founded complaint, and presents a striking contrast to the rigorous ordinances of some of the continental nations relative to such distinctions. In the Appendix to the "Saltfoot Controversy,"[1] Mr. Riddell quotes the following passages from the *Meditationes ad Pandectas* of the celebrated Leyserus, with reference to the unlaw

[1] Pp. 121-123.

ful assumption of Arms and the fabrication of false Pedigrees:—

"FALSARII SUNT qui insignia sibi, nobilitatem, vel antiquitatem generis, arrogant. Nihil frequentius est, quam insignia sibi propria auctoritate sumere, cognomini suo istam nobilitatis notam 'von' præponere, vel si quis recenter nobilis creatur, antiquitatem generis fingere, et in priscam familiam sese asserere. Atque tamen, qui hoc faciunt FALSARII MANIFESTI SUNT."

"FALSUM COMMITTUNT viri docti, qui hominibus de plebe nobilitatem, insignia et antiquitatem generis adfingunt. Pœna eorum ad ULTIMUM SUPPLICIUM extendi potest! Declamavi contra eos, qui insignia sibi, nobilitatem vel antiquitatem generis arrogant. Quod falsi genus asperte damnatur in *L.* 13 *pr. et L.* 27, § *ult. de L. Cornelia de falsis.* Parum tamen isti falsarii proficerent, ni adjutores haberent, doctos magnæque in republica literaria auctoritatis viros. Hos scilicet mercede conducunt, ut sibi stemma, nomen, genus, familiam, majores ex penitissima antiquitate eruant et adfingant. . . . . Oportebat igitur hos alienorum falsorum fabricatores gravius etiam, quam qui eos conducunt, puniri. Interest inter utrosque, quod inter assasinos et assasinatores, quorum illi secundum *Carpzovium in Quæst. crim.* 19 *n.* 15 *et* 19, ROTA, hi GLADIO, puniuntur."

The proverbial inaccuracy, or rather untruthfulness, of numerous pedigrees contained in modern genealogical works appears to be commonly regarded as a very venial breach of morals—one of the many laudable

characteristics of these days of progress and refinement! Ancestors, as well as arms, are readily found by the "professional genealogist," and no great difficulty is experienced by the "novus homo" of the nineteenth century in procuring a very respectable gallery of family portraits, in order to give an appearance of reality to the miserable sham. Every wealthy tradesman bearing the name of Campbell is, of course, a countable kinsman of his Grace of Argyll, while the obscurest Bruce or Stewart, who contrives to emerge from the masses, forthwith becomes a complacent scion of Royalty![1]

> "Omnis enim res,
> Virtus, fama, decus, divina humanaque pulchris
> Divitiis parent; quas qui construxerit, ille
> *Clarus* erit, fortis, justus. Sapiensne? Etiam; et *Rex*,
> Et quidquid volet."[2]

Even tombstones, which so frequently speak falsely enough of individuals, are made the record of fictitious ancestry, and the sacred walls of the Church are profaned by the falsehoods which are sometimes inscribed upon them.

[1] Such pretensions are in utter disregard of the well-known proverb :— "A' Stewarts are no' sib to the king."

[2] Hor. *Sat.* II. 3. 94.

CHAPTER V.

ANCIENT SCOTTISH SEALS AND OTHER SOURCES OF HERALDIC INFORMATION.

NEXT in order to the Lyon Register, in point of authority, Nisbet places the Seals of ancient Scottish Charters and other documents, of which a highly interesting Catalogue was published a few years ago by Mr. Henry Laing, under the auspices of the Bannatyne Club.[1] Re-

[1] *Descriptive Catalogue of Ancient Scottish Seals*, Edinburgh, 1850. The contents of this very useful volume throw considerable light on the subject of armorial bearings, and correct numerous errors and mis-statements of modern heralds, of which the author gives one or two curious examples in his modestly-written Preface. The Catalogue contains an accurate description of no fewer than 1248 seals — embracing the period from the end of the eleventh century to the Commonwealth—and is illustrated by numerous plates and woodcuts. Its contents may be classified as follows :—

Royal Seals, . . .	80
Baronial do., . . .	826
Ecclesiastical do., . .	288
Municipal do., . . .	54
	1248

Some of the finest seals in the Catalogue pertain to the illustrious Houses of Stewart, Douglas, and Lindsay. In the case of the Stewarts, we have an unbroken succession for nearly five centuries, with the single exception of the seal of Walter, father of Robert II. It appears, however, that this seal was appended to the letter of the Scottish Barons to the Pope, in the year 1320, but it has, unfortunately, for a long time been lost. The seals of the Douglases and the Lindsays — upwards of seventy in number — independently of their valuable illustration of heraldic practice, afford very interesting evidence of the advanced state of mediæval art.

Since the publication of the Catalogue, Mr. Laing has added largely to his collection of seals, and there

ference has already been made (in the introductory chapter) to the important bearing of seals on the systematic development of armorial ensigns; and the worthy Nisbet would unquestionably have been nearer the truth if he had asserted that they form the *most* authentic, as well as the earliest record of heraldic bearings. Mr. Innes alludes to the further importance of seals as illustrations of the state of the arts at a remote period, and also to the valuable information which they afford as to the real style and title of the owner, with respect to which the charter itself is sometimes silent.[1] "As mere works of art," he says, "these old seals show great skill in figure and combination, and evince undoubtedly a clear perception of the beautiful. But when you consider that in them we read the first adoption of the cognizance of each noble name—the descent and alliances of most of our old families—while the arms, though commonly surrounded simply with the name and style of the individual, are sometimes in combination with the proud battle-cry of the race, or with a motto of peace and affection, approaching to the sentiment on a modern lady's seal-ring, you will see that a knowledge of them is not only calculated to give precision to history, but to throw light upon the modes of life and thought of our ancestors."[2]

is every prospect of his being induced to publish a second volume.

Accurate casts of any of the seals in his extensive collection, and also matrices in glass, may be obtained, at a very moderate price, from Mr. Laing, No. 3, Elder Street, Edinburgh.

For a notice of other works on seals, see Moule's *Bibliotheca Heraldica*, pp. 357, 652.

[1] See *Sketches of Early Scottish History*, p. 112.

[2] *Scotland in the Middle Ages*, p. 308.

SECTION I.—THE SHIELD.

Uredius, in his *Sigilla Comitum Flandriæ*, gives us an armorial seal of Robert le Frison, Earl of Flanders, attached to a deed dated 1072, the authenticity of which, however, has been disputed. According to Mr. Planché,[1] the earliest unquestionable example in the collection of the same author is the seal of Philip I., Count of Flanders, on which the lion appears as a heraldic bearing—the date being 1164; and a seal of Louis VII. of France (1137-80) exhibits a single fleur-de-lis (flower of Louis)—the well-known national bearing of that kingdom.[2] A strikingly similar figure appears upon the Scottish seal of John de Mundegumbri, third of Eagleshame, appended to a charter of certain lands to the Abbey of Melrose, about the year 1170;[3] and it is somewhat singular that, as in the case of France, *three* fleurs de-lis were afterwards adopted as the armorial ensigns of the House of Montgomerie. While the Scottish seals of the thirteenth century afford many interesting examples of heraldic practice, it is generally supposed that the stars, flowers,

[1] *Pursuivant of Arms*, p. 9.

[2] Plate v. fig. 1. From the time of Charles VI. the Royal Insignia of France consisted of *three* fleurs-de-lis. Before his reign the escutcheon was *semé de lis*, *i.e.*, sown with an indefinite number of these charges. The origin of the fleur-de-lis has afforded an ample field for controversy, and in the year 1837 a work on the subject, by M. Rey, appeared in France, in two vols. 8vo. It has been variously supposed to represent the water-lily, the iris, a toad and a lance-head! Upton calls it "flos gladeoli," the flower of the glader or sword-grass; and the Book of St. Albans describes the Arms of France as "iij flowris in maner of swerdis, which were certainli sende by an Aungell from Heaven."

[3] Plate v. fig. 2. Laing's *Catalogue*, No. 590, and Fraser's *Memorials of the Montgomeries*, i. 10. See also the seals of Nicholas de Merns (1170), Alexander Chattou (1226), and Laurence of Ilifeston (1249).—Laing's *Catalogue*, Nos. 587, 175, and 444.

and other simple devices, unaccompanied by shields, which are engraved on those of the preceding century, exhibit the *elements* of the science of Armory. As illustrative examples, we may mention the seals of Richard Falconer (1170)—two *Falcons* on a fleur-de-lis, and of Patrick Corbet (1170)—two *Corbeaux* in a tree; and also the later seals of Sir Richard Burnard or Burnet (1252)—a *Leaf*, Angus of the Isles (1292)—a *Galley*, and William Connisburgh (1292)—a *Cony* surrounded with foliage.[1] On the other hand, however, several of the earliest Scottish seals exhibit figures which were not ultimately adopted as the armorial ensigns of the families with which they are associated, when Heraldry was placed on a systematic basis. Thus, on the seals of William Wallace (1160), Adam Home (1165), Patrick Ridel (1170), Duncan Earl of Carrick (1180), and Robert Pollock (1200), we find an eagle, a mullet, a lion, a dragon, and a boar respectively — totally different charges having been afterwards borne as the heraldic ensigns of these surnames.[2]

The introduction of both Arms and Surnames into Scotland is usually assigned to the reign of William the Lyon (1165-1214).[3] According to Lord Hailes,[4] the

[1] Laing's *Catalogue*, Nos. 323, 201, 145, 450, and 200.

[2] *Ibid.* Nos. 836, 431, 693, 164, 670.

[3] The escarbuncle upon the shield borne by the effigy (in the Temple Church) of Geoffrey de Mandeville, Earl of Essex, who died in the year 1144, is considered one of the earliest examples of armorial bearings in *England*. It is doubted, however, whether the monument is older than 1185, the date of the consecration of the Church. Dallaway refers the earliest representation of arms upon an English *Seal* to 1187; and two years later, the first Great Seal of Richard I. (Cœur de Lion) exhibits armorial insignia, in the shape of one, or perhaps two lions rampant.

[4] *Annals of Scotland*, i. 168.

lion rampant was first assumed by that monarch as the national ensign, from which circumstance he is commonly supposed to have derived his distinctive appellation. The noble beast, however, does not appear upon his seal, but is distinctly represented on the seal of his son and successor Alexander II. (*c.* 1235), with apparent remains of the double tressure fleur-de-lisée, which is very clearly shown on the well known Privy Seal of Alexander III. (*c.* 1260).[1]

The shape of the shield varied considerably at different periods. On the earliest seals, we find the narrow *kite*-shaped shield of the Normans, usually borne on the left arm of an equestrian figure, and without any heraldic charges.[2] This form prevailed with certain modifications, tending to the *pear*-shape and *heart*-shape, till about the middle of the thirteenth century, when the *heater*-shape was almost universally adopted. The seals of Saer de Quinci, first Earl of Winchester (*c.* 1170), John son of Michael (*c.* 1220), and Galfrid of Hordene (*c.* 1230),[3] afford good examples of the pear-shaped shield, while the heart-shape is exhibited on those of Robert Croc (*c.* 1200) and Malcolm, Earl of Angus (1225)[4] As amongst the earliest examples of the heater-shape, we may mention the seals of Thomas de Aunoy (1237), Thomas Lessedwyn (1250), and John de

[1] Plate v. figs. 3, 4, and Laing's *Catalogue*, Nos. 11 and 16.

[2] See the seals of David, Earl of Huntingdon, afterwards David I. (1120)—Plate v. fig. 5; Thor de Traverent (1150), and William Lindsay, Lord of Ercildoun and Crawford (*c.* 1170).—Laing's *Catalogue*, Nos. 442, 822, and 503.

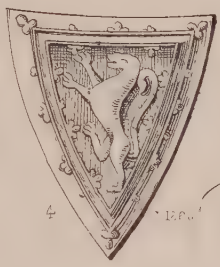
[3] Laing's *Catalogue*, Nos. 680, 459, and 438; also Plate VII. fig. 10, and Plate v. fig. 6.

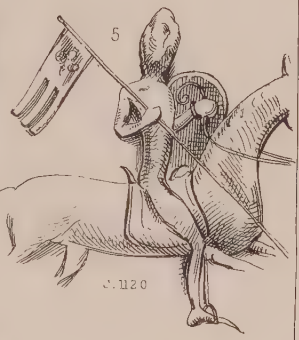
[4] *Ibid.* Nos. 221 and 86; also Plate v. fig. 7.

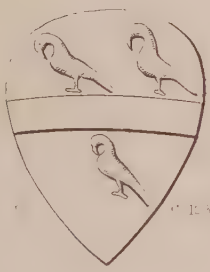
1
c. 1150

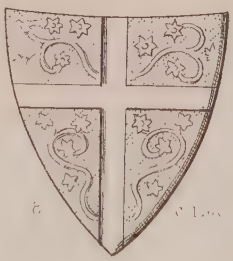
2
c. 1170

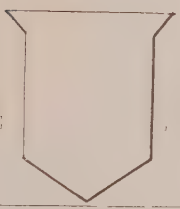
3


4


5
c. 1120




6



Vesci (*c.* 1260).[1] The heater-shape continued to prevail during the fourteenth and fifteenth centuries, exhibiting, however, a tendency to increase in breadth, particularly towards the base. Up to the middle of the fourteenth century, the shield is usually *erect*, and surrounded by a legend descriptive of the owner. After the introduction of the helmet and crest as heraldic accessories, the escutcheon is generally represented *couché*, *i.e.*, pendent from the right or left upper corner—the latter being the position almost invariably adopted. This arrangement is supposed to have derived its origin from tilts and tournaments, prior to which the competitors required to hang up their shields of arms; and, according to Columbier, "they who were to fight on foot had their shields hung by the right corner, and they on horseback by the left." During the sixteenth and seventeenth centuries, the armorial shield exhibits numerous changes of form, many of which are at once inelegant and unsuitable; and in more recent times, the modern-antique and other fantastic shapes which have been assigned to it must be familiar to the most casual observer.[2]

A pear-shaped shield, charged with a fess and a label of seven points, appears on the counter-seal of Saer de Quinci, first Earl of Winchester, appended to a charter in favour of the Abbey of Holyrood, *c.* 1170.[3] The seals of the De Quincis, which exhibit some remarkable heraldic peculiarities, are described in a paper read

[1] Laing's *Catalogue*, Nos. 93, 494, and 834; also Plate v. fig. 8. The device on the seal of Thomas Lessedwyn appears to be erroneously described in the Catalogue as "*not* on a shield."

[2] See Plate v. figs. 9-12.

[3] Laing's *Catalogue*, No. 680.

before the Archæological Institute in 1845 (and published the following year) by Mr. J. G. Nichols. Behind the equestrian figure on Earl Saer's seal, another shield is placed, charged with a fess between two chevronels, the bearings of the Fitzwalters, Earls of Essex; from which it would appear, as Mr. Nichols remarks, that even in the twelfth century "a certain meaning was attached to secondary and accessory coats, as is now expressed by the practices of impaling and quartering." Saer's son and successor was Roger de Quinci, second Earl of Winchester, and Constable of Scotland in right of his wife, the eldest daughter of Alan Lord of Galloway. His beautiful seal (1250)[1] exhibits a shield of arms totally different from that of his father, viz., five (or more probably seven) mascles, which also appear, along with the fess and chevronels (in two different shields), upon the seal of his widowed mother, Margaret, daughter and co heiress of Robert de Bretcuil, Earl of Leicester.[2] Beneath his equestrian figure is a wyvern, which is also placed—as a species of crest—on the top of the helmet of the knight, on foot, in combat with a rampant lion, represented on the counter-seal.[3] One of the seals of Alan, son of Walter, Steward of Scotland (*c.* 1190), exhibits a

[1] Laing's *Catalogue*, Nos. 681, 682.

[2] Plate VI. fig. 1.

[3] Earl Roger left three daughters and co-heiresses, of whom two were married to English Barons, and in consequence of their adherence to Edward II. the lands of their wives, including Falsyde and Tranent—originally granted to the father of the first Earl of Winchester by William the Lion—were forfeited, and conferred by King Robert the Bruce on his nephew, Alexander de Seton.—(Chalmers' *Caledonia*, ii. 432, 523.) The dragon or wyvern has long been carried as a crest by the family of Seton, and the title of Earl of Winton (or Winchester) was conferred on the descendant of Alexander de Seton in the year 1600.

shield charged with a fess checquy, which is perhaps the earliest instance of the armorial ensign of the House of Stewart; and the same figure is very distinctly represented on the Privy Seal of Alan's son Walter, appended to one of the Melrose charters (*c.* 1200).[1] As other early examples of Scottish Heraldry, we may mention the seals of Gilbert, Earl of Stratherne (*c.* 1198)—nine billets; Patrick Dunbar, fifth Earl of March (*c.* 1200)—a lion rampant; Robert Croc (*c.* 1200)—three crooks; Sir Alexander Seton (*c.* 1216)—three crescents and a label; William de Vesci (*c.* 1220)—a cross patonce; Galfrid of Hordene (*c.* 1230)—a fess between three pelicans; and Thomas de Aunoy (*c.* 1237)—an escallop shell.[2]

Many of the Scottish seals of the thirteenth and fourteenth centuries furnish undoubted examples of *Differences*—the charges generally adopted being the Label, the Bend, the Bordure, and the Chevron. Thus, along with the paternal ensigns of the respective surnames, a *Label* of three, four, or five points appears upon the seals of Sir Alexander Seton (1216), Simon Fraser (1292),[3] Alexander Stewart, Earl of Menteith (1296), Sir Thomas Erskine (1364), and Sir William Douglas (1373);[4] and the same figure is represented, along with the arms of Scotland, on the seal of John, Earl of Carrick (1380),

[1] Plate VI. figs. 2, 3, and Laing's *Catalogue*, Nos. 772 and 774.

[2] *Ibid.* Nos. 762, 283, 221, 736, 833, 438, and 93; also Plate VI. figs. 4, 5, 6.

[3] A fanciful mode of differencing occurs on the seal of William, son of Alexander Fraser, appended to a deed of homage dated 1295, viz., a Label of three points (not on a shield)—each point being charged with two roses.—Plate VI. fig. 7.

[4] Laing's *Catalogue*, Nos. 736, 347, 785, 311, and 240.

afterwards Robert III[1] A *Bend* surmounts the fess checquy, the chief paly, and the three escutcheons on the seals of Sir John Stewart of Bonkil (1296), Edward Keith (1320), and John Hay (1368).[2] In like manner, a lion rampant, debruised with a ribbon, occurs upon the seals of Sir Richard Wallace (1220), and Alexander Abernethy (1292), while on that of William Ramsay, Earl of Fife—jure uxoris—(1358), a displayed eagle is surmounted by a bendlet;[3] but whether these charges are introduced as marks of difference is somewhat doubtful. In addition to their paternal arms, the seals of Sir Andrew Murray (1292), Hugh Fraser (1377), and Patrick Hepburn (1371), furnish examples of the *Bordure*, which in the two first cases is charged with eleven roses and nine mullets respectively, while in the third the bordure is uncharged.[4] A *Chevron* between three mullets appears on the seal of William Murray of Tullibardin (1292), and between three escallop shells on that of John Graham (1370).[5] The Mullet, Crescent, and Fleur-de-lis also occasionally occur as marks of difference. Thus, in addition to the fess checquy, a *Mullet* appears upon the seals of Sir Alexander Lindsay, Lord of Glenesk (1371), and Robert Stewart, afterwards Duke of Albany (1373)—in the one case occupying the sinister, and in the other the dexter chief point.[6] Again, on the later seal of

[1] Laing's *Catalogue*, No. 783.

[2] *Ibid.* Nos. 780, 462, and 419; also Plate VI. fig. 8.

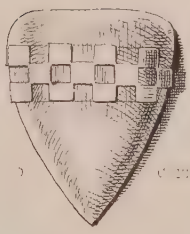
[3] *Ibid.* Nos. 839, 80, and 684; also Plate VI. fig. 9.

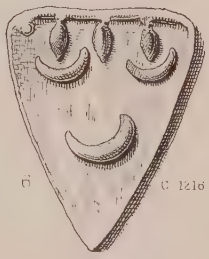
[4] *Ibid.* Nos. 608, 351, and 427; also Plate VI. figs. 10, 11.

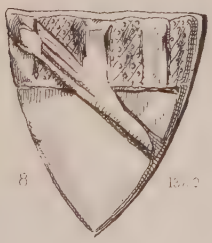
[5] *Ibid.* Nos. 610 and 380; also Plate VI. fig. 12.

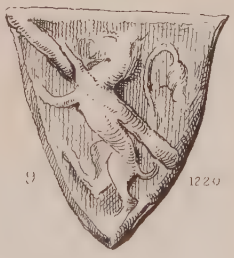
[6] *Ibid.* Nos. 511 and 786; also Plate VII. fig. 1.

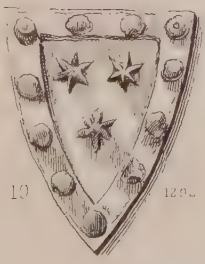
Sir Alexander Lindsay married Catharine, daughter of Sir John Stirling, and heiress of Glenesk and











W. & A.K. Johnston, Edinburgh.

Walter Ogilvie (1454), we find the ensigns of Ogilvie and Ramsay borne quarterly, with a mullet "over all" (*i.e.*, on the fess point) for difference.[1] A *Crescent* occurs between three covered cups (the paternal arms) on the seal of James Shaw (1409), and also on the pale in the shield of Alexander Erskine, brother of John Lord Erskine (1563).[2] Besides a demi-lion issuing from a fess—as on the seal of William Chalmers (1404)—a *Fleur-de-lis* appears in the base of the shield on the seal of Thomas Chalmers (1468).[3]

In addition to these strictly heraldic charges, many of the early Scottish seals exhibit various other figures introduced by way of differences. Thus, while the escutcheon of Reginald Chein, Lord of Inverugie (1292), displays a bend on a field semé of cross-crosslets fitchée, in that of his son Reginald (at the same date), the bend is charged with *three escallop shells*.[4] Again, on the seal of Sir John Graham, Lord of Abercorn (1320), in addition to the paternal arms (three escallops on a chief), we find a *boar's head* couped; while on that of Gilbert Maxwell (1342), the family saltire surmounts a *lion* rampant.[5]

Edzell in Angus, by whom he had issue—David first Earl of Crauford. In common with the House of De Moravia and other northern families, three stars or mullets were the cognizance of the Stirlings of Glenesk, and these figures were afterwards borne in the escutcheon of the family of Byres and other branches of the Lindsays.—See Lord Lindsay's *Lives of the Lindsays*, i. 51.

[1] Laing's *Catalogue*, No. 658.

[2] *Ibid.* Nos. 743 and 319; also Plate VII. fig. 2.

About the same date (1558), a pale charged with a *sword* appears on the seal of Robert Erskine, Dean of Aberdeen.—*Ibid.* No. 318.

[3] *Ibid.* Nos. 168 and 169; also Plate VII. fig. 3.

[4] *Ibid.* Nos. 176 and 177; also Plate VII. figs. 4, 5.

[5] *Ibid.* Nos. 378 and 573.

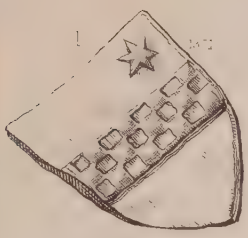
There are, moreover, several pretty early examples of heraldic differences indicated by bends, bordures and other figures being formed by *irregular lines*, of which the indented and engrailed are probably the most frequent. Thus, while the bend is indented on the seal of John Hay (1368), already referred to, and the pale engrailed on that of Sir Nicolas, second son of Sir Robert Erskine (1370); the chief is dancetté and engrailed respectively on the seals of Henry Douglas, Lord of Lugton (1392), and Robert Graham of Fintry (1478).[1] In a few rare instances we find an *Ermine* field—possibly by way of difference—as on the seals of Archibald Douglas, Lord of Galloway (1373), and John Douglas, Dean of Moray (1392);[2] while the seals of Sir Robert Keith (1316), William Keith (1371), and Sir James Douglas of Dalkeith (1371), furnish early examples of *Diapering*.[3]

Although the invention of the art of distinguishing *tinctures* by lines is usually attributed to Francesco di Petra Sancta, an Italian Jesuit, who flourished about the middle of the seventeenth century, a few of our earliest seals exhibit lines which may possibly have been intended to indicate colour. Thus, on the curious seal of John, son of Michael (1220), to which we have already referred, the shield is party per pale, a chevron surmounted by

[1] Laing's *Catalogue*, Nos. 419, 312, 261, and 381—Plate VII. figs. 6, 7, 8—see also Nos. 302, 684, 427, and 846.

[2] *Ibid.* Nos. 239 and 260; also Plate VII. fig. 9. In his description of the former of these two seals, the peculiarity of the ermine field is not noticed by Mr. Laing, whose usual accuracy in the most minute details is beyond all praise.

[3] *Ibid.* Nos. 461, 463, and 257.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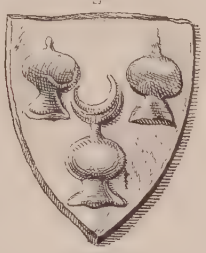
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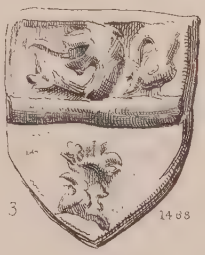
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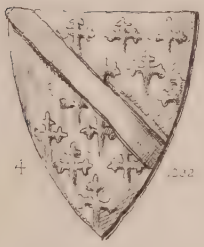
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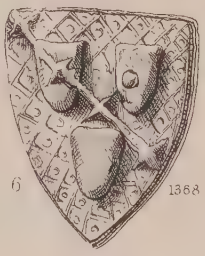
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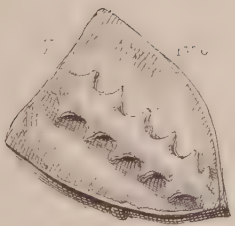
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another reversed, the sinister side being marked with lines crossing each other dexter and sinister bendwise, which also occur in the shield of Alexander Seton (1320). Again, on the seal of Roger Bigod (1292), we find a shield also party per pale, a lion rampant, the dexter side, according to Mr. Laing, being "engraved to indicate some colour."[1]

Before the general adoption of the comparatively modern system of quartering and impaling, we frequently meet with two or more shields with different charges on the same seal. Thus, the seal of David de Brechin (1320) exhibits three shields, of which the first is charged with three piles in point, the second with three garbs, and the third with an eagle.[2] The same arrangement occurs on several Ladies' seals of the fourteenth century. Thus, three shields appear on the seal of Euphemia Leslie, Countess of Ross (1394), bearing the ensigns of Leslie, Ross, and Buchan respectively; while the seal of Margaret Stewart, Countess of Angus and Mar (1378), exhibits two shields, the one being charged with the bearings of Mar and the other with those of Stewart of Bonkill.[3]

[1] Laing's *Catalogue*, Nos. 459, 737, and 116; also Plate VII. fig. 10.

[2] *Ibid.* No. 132; also Plate VII. fig. 11.

On the early seal of Sir Norman Leslie (1292), no fewer than six shields are disposed in a circle, with their base points inwards, each having the *same* charge, viz., three buckles on a bend (*Catalogue*, No. 495.) See also the curious oval seal of Elizabeth Biset, widow of Andrew de Bosco (*c.* 1280), exhibiting two lions combatant, surrounded by four shields, each charged with a bend, the cognizance of the Bissets (*Catalogue*, No. 117).

[3] *Ibid.* Nos. 499 and 792; Plate VII. fig. 12. See also the seals of Margaret Stewart, Countess of Angus (1366), Euphemia, Countess of Moray (1369), and Isabella, Countess of

According to some heraldic writers, the earliest mode of placing the arms of a husband and wife was side by side, and shields so disposed are said to be *Accollées* or *Collateral*. Sandford, in his *Genealogical History of England*, refers to the seal of Margaret Duchess of Norfolk, daughter of Edward I., on which her paternal arms occupy an escutcheon placed between two others accollées, the dexter bearing the ensigns of her first husband, John Lord Segrave, and the sinister those of her second husband, Sir Walter Mannay. Very few instances of this arrangement are to be met with either in French or Scottish Heraldry. Nisbet refers to several examples of the practice "on the Entries of old houses" in Edinburgh and the provinces;[1] but the only illustrations which he actually specifies are the bearings of his "very good friend," Henry Frazer, Ross Herald, and James Smith of Whitehill, Architect and Master of Works in Scotland, as *engraved on copper plate* side by side with the arms of their wives, in separate escutcheons. An interesting example, however, of shields accollées is still to be seen on the north wall of the choir of St. Giles' Church, Edinburgh, above the tablet which indicates the burial-place of the Napier family—the dexter escutcheon being charged with an engrailed saltire between four roses for Napier of Merchiston, while the sinister bears a bend charged with a crescent between two mullets (or spur-rowels), the ensigns of the Napiers of Wrychtishousis, and not of the Scots of Fife (1369)—*Catalogue*, Nos. 791, 767, and 335. A similar practice prevailed in England during the thirteenth century.—See *Archæological Journal*, x. 143, and xi. 371.

[1] *Essay on Armories*, p. 62.

Thirlstane, as formerly supposed.[1] The two escutcheons are placed between two angels as supporters, and are timbred with a helmet and mantling surmounted by the Merchiston crest.

Probably the first approach to marshalling is to be found in what are usually termed *composed* arms, of which the seals of Eustacia Colvile, widow of Reginald le Chein (1316), David Stewart, Earl of Stratherne (1374), and Alan Stewart of Ochiltrie (1377), may be mentioned as early examples.[2] The first of these exhibits a cross moline, square pierced, for Colvile, between four cross-crosslets fitchée for Cheyne—these figures, however, not being placed upon a *shield;* the second bears a fess checquy for Stewart, between two chevrons for Stratherne; and the third, a similar fess surmounted by a bend charged with three buckles for Bunkle of that Ilk, in the Merse, the heiress of which family was married to Sir John Stewart, second son of Alexander, Lord High Steward of Scotland, about the year 1294. As a comparatively recent example of this arrangement, we may refer to the seal of John Stewart, Lord of Lorn (1448), on which, as Mr. Laing remarks, the charges are disposed in such utter disregard of heraldic rule, as to render a correct blazon almost impossible.[3]

[1] See Wilson's *Memorials of Edinburgh*, i. 131, 208, and Napier's *History of the Partition of the Lennox*.

The arms of the Scots of Thirlstane are a bend charged with a mullet between two crescents (not a crescent between two mullets), within a double tressure. A matrimonial alliance took place between the families of Merchiston and Wrychtishousis about the year 1513, to which the stone at St. Giles' most probably relates.

[2] Laing's *Catalogue*, Nos. 191, 768, and 1241; also Plate VIII. figs. 1, 2.

[3] *Ibid.* No. 797.

The seal of Walter Leslie, "Dominus de Ros" (1367), presents one of the earliest Scottish examples of *Quartered* arms, viz., first and fourth, a bend charged with three buckles for Leslie; second and third, three lions rampant for Ross. Eleven years later (1378), a quartered shield appears upon a seal of William, first Earl of Douglas and Earl of Mar—first and fourth, a human heart, and on a chief three mullets for Douglas; second and third, a bend between six cross-crosslets fitchée for Mar.[1]

Prior to the practice of entire impalement, we find several examples of what is termed *Dimidiation*—the dexter half of the husband's arms being impaled with the sinister half of the wife's. This arrangement is said to have been pretty frequent in England about the time of Edward I. The seal of Eleanor Ferre (1348), engraved in the *Archæological Journal* (xi. 375), affords an early example of dimidiation;[2] and the arms of Aylmer de Valence, Earl of Pembroke and Montgomery,

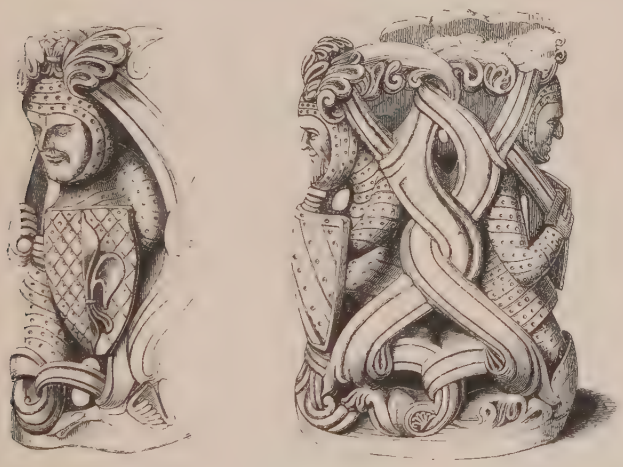
[1] Laing's *Catalogue*, Nos. 496 and 238; also Plate VIII. fig. 3.

With the exception of the bearings of Castile and Leon—a castle and Lion quarterly—on the tomb (at Westminster) of Eleanor, Queen of Edward I., who died in 1290, the earliest instance of quartered arms in *England*, is mentioned in an inventory of the goods of Humphrey de Bohun, Earl of Hereford and Essex, dated 1322.—(*Archæological Journal*, ii. 343.)

We have already referred to the rare occurrence of numerous quarterings on this side of the Tweed. "In Scotland," says Sir George Mackenzie, "we exceed not six, only the Viscount Falkland, who was an Englishman, did bear thirty-three."—(*Science of Heraldry*, chap. xxiv.) Examples of more than four different coats in the same escutcheon are very seldom to be found in Scottish Heraldry. The Duke of Atholl and the Earl of Dunmore each carry *six*, and the Wallaces of Craigie nine, or rather *eight*, different coats—the ninth quarter being a repetition of the first.

[2] See also the shield bearing the arms of Harcourt and Beke dimidiated (*c.* 1330), engraved at p. lv.

and Mary his wife, daughter of Guy de Chastillion, Earl of St. Paul in France, are still borne dimidiated by the Society of Pembroke Hall, Cambridge, which the said Mary founded in 1343. A very curious example of a dimidiated fleur-de-lis occurs on the escutcheon borne by one of the helmed knights on the chess-piece, presented



by Lord Macdonald, in 1782, to the Museum of the Society of Scottish Antiquaries. It is said to have been found in one of the western islands, and is supposed to have been carved as early as the twelfth (?) century, from the tusk of a walrus.[1] Sometimes only the husband's arms were dimidiated, the wife's being borne entire—a practical illustration of the "better half"—as on the seal of Philip the Bold, Duke of Burgundy, in

of the Introduction to the *Oxford Manual of Monumental Brasses.*

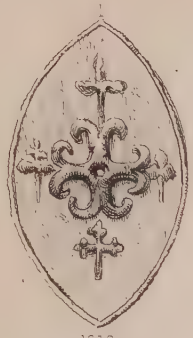
[1] *Proceedings of the Society of Scottish Antiquaries*, iii. 104.

1381; and also, nearly two hundred years later, on the Great Seal of Mary Queen of Scotland, when married to Francis II. of France, where the ensigns of Scotland are placed entire on the sinister side of the shield, and those of France dimidiated on the dexter side—the fleur-de-lis in the sinister chief point, and one half of the fleur-de-lis in base being absconded.[1] In the former of these two cases, the dimidiated arms were *quarterly*, and accordingly only the first and third quarters were displayed to view. This mode of marshalling is not unsuitable where the dimidiated coat is "plain-quartered" (*i.e.*, the fourth quarter a repetition of the first, and the third of the second); but otherwise, it is by no means a desirable arrangement. A comparatively recent example of *two* plain-quartered coats dimidiated occurs on the seal of Lady Margaret Montgomerie, wife of Robert Seton, first Earl of Winton (*c.* 1600), the paternal arms occupying the *dexter* side of the shield contrary to the usual practice.[2] The dexter side of the seal of William Meldrum of Fyvie (1468) may, perhaps, be regarded as furnishing an earlier illustration of a quarterly coat dimidiated—the upper half being charged with three pallets, and the lower with three unicorns' heads; while the sinister side exhibits an otter rampant.[3] In

[1] Laing's *Catalogue*, No. 64; also Plate VIII. fig. 4.

[2] *Ibid.* No. 592; also Plate VIII. fig. 5. Mr. Laing thus describes the escutcheon on this seal: "Per pale, dexter, per fess, first, Montgomerie, second, Eglinton. Sinister, also per fess, first, Seton, second, Buchan." As stated in the text, however, it appears to be the impalement of two "plain-quartered" coats, dimidiated; the sinister half being omitted in *both* cases, so as to place the first quarter in chief.

[3] Plate VIII. fig. 6. This seal is appended to a precept of sasine in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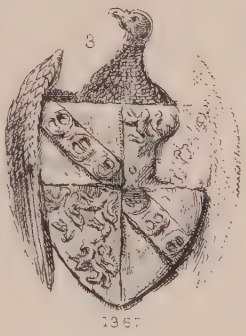
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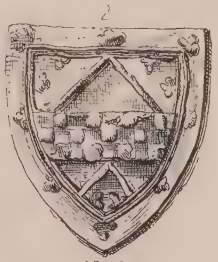
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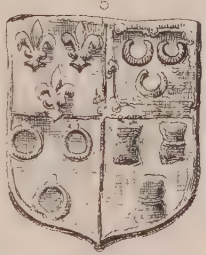

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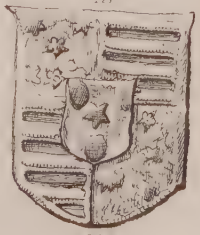

1513

the course of time, dimidiation was superseded by the practice of impaling coats entire, the only existing remnant of the former arrangement being the omission of bordures, tressures, and orles on the side next the line of impalement.

The seals of Margareta, daughter and heiress of John Cragy of that Ilk (1377), Marion, wife of Sir William Dalziel (1392),[1] and Mariota, daughter and heiress of Reginald Cheyne of Inverugie, and wife of John, second son of Sir Edward Keith, Marischal of Scotland (*c.* 1360) are early instances of entire impalement (*Anglicè*, Baron and Femme). It does not appear who the lady was in the second of these three examples; and a peculiarity of the blazon consists in the fact of her paternal arms (a saltire cantoned in chief with a cinquefoil) being placed on the *dexter* side of the escutcheon, while the arms of her husband occupy the sinister side, besides appearing on a separate seal attached to the same charter.[2] Even during the fifteenth and sixteenth centuries, we have comparatively few examples of impalement on the seals of Scottish ladies. The only

favour of James Innes of that Ilk, and was communicated by Lord Lindsay to Mr. Laing after the publication of his Catalogue.

[1] Laing's *Catalogue*, Nos. 205 and 231; also Plate VIII. figs. 7, 8.

[2] On the other side of the Tweed, in a few early instances, the wife's arms are placed in the more honourable position, in consequence of her being a great heiress or of higher rank than her husband, as on the seal of John of Gaunt, Duke of Lancaster, where the arms of his second wife, Constance, eldest daughter and co-heir of Peter, King of Castile and Leon, occupy the dexter side of the escutcheon. It ought to be borne in mind, however, that the repairs of stained glass windows have sometimes led to the falsification of armorial bearings by unintentional misplacement. — (See *Archæological Journal*, v. 15.)

instances in Mr. Laing's *Catalogue* are the seals of Isabella, Countess of Lennox and Duchess of Albany (1445), Elizabeth Ogston, wife of Adam Hepburn of Craigie (1503), Alison Douglas, widow of David Home of Wedderburn (1535), Margaret, Duchess of Chatelherault (1560), and Margaret Home, wife of Alexander Erskine (1563).[1] In the case of the Countess of Lennox, the same arrangement appears as on the seal of Marion Dalziel already referred to, the dexter side of the shield being occupied by the ensigns of Lennox, and the sinister by those of Stewart, with a lion rampant in base, for Albany;[2] but in all the other examples the ordinary mode of marshalling is followed—the husband's arms being placed on the dexter, and the wife's on the sinister side of the shield.[3] On the other hand, many of the charters and other documents of the same period furnish examples of seals of married women, on which only their paternal arms appear, the ensigns of their lords being displayed on separate seals. As illustrations of this practice, we may mention the seals of Margaret Edmonstone, wife of Sir Walter Ogilvie of Boyne (1485), Margaret Cockburn, wife of William Hay of Tallo (1513), Christina Ochterlony, wife of George Arrot of that Ilk (1533), Margaret Lindsay, wife of David Beton of Melgund (1550), and Marion Pringle, wife of Walter Riddell of that Ilk (1566).[4] The seal of Barbara Moubray of Barnbougle, bearing her paternal arms only.

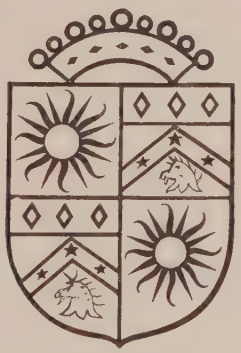
[1] Laing's *Catalogue*, Nos. 493, 663, 270, 406, and 435.

[2] Plate VIII. fig. 9.

[3] Plate VIII. fig. 10 (Alison Douglas, widow of David Home of Wedderburn).

[4] Laing's *Catalogue*, Nos. 306, 1210, 647, 529, and 676; also Plate VIII.

is appended to a charter, dated 1534, along with the seal of her husband, Robert Barton (*alias* Moubray), which exhibits a quartered shield—the first and fourth quarters being occupied by the arms of Barton, and the second and third by those of Moubray.[1] Churches, castles, and tombstones afford numerous examples of the non-impalement of the husband's arms in the case of married women and widows, at a comparatively recent date.



Thus, on the slabs in the Abbey of Holyrood, which commemorate the decease of "Margaret Erskin, Lady Allerdes and Dame" (1599), and Isobel Ker, Viscountess of Drumlanrig (1628), only the maiden arms appear in the escutcheons.[2]

According to modern practice, Women of all ranks (the Sovereign alone excepted) carry their arms in

figs. 11, 12, (Margaret Cockburn and her husband, William Hay of Tallo.) —(*Catalogue*, Nos. 1210 and 1226.) See also Nos. 272, 105, 532, 394, 208, 143, 180, 114, 301, 1208, and 181.

[1] *Ibid.* Nos. 604 and 605. In terms of an Act of the Scottish Parliament. Robert Barton was obliged to assume the surname of Moubray, on his marriage to the heiress of Barnbougle.

[2] See Paper by the Author on the Incised Slabs at Holyrood, *Archæologia Scotica*, iv. 446.

Lozenges,[1] but formerly all Ladies of rank bore Shields upon their seals. Much earlier examples of the lozenge are to be found in English than in Scottish Heraldry; indeed, during the long period of five and a half centuries (1094-1649) embraced by Mr. Laing's *Catalogue*, which contains numerous examples of women's seals, we do not find a single instance of the lozenge the arms being invariably disposed in the ordinary shield of the day. The learned Sir George Mackenzie makes a most unaccountable statement, in the third chapter of his *Science of Heraldry*, relative to the seal of Muriel, Countess of Strathern (1284),[2] to the effect that she carried her arms "in a lozenge" (*i.e.*, on a shield within a lozenge), which he strangely misrepresents in one of his plates.[3] The only Scottish seal exhibiting a lozenge that has yet been met with is that of Joan Beaufort, widow of James I., and daughter of John Earl of Somerset (illegitimate son of John of Gaunt), which is unfortunately very imperfect. The dexter side is occupied with the arms of Scotland, and the sinister with those of France and England quarterly, within a bordure "componé," in reference to the illegitimacy of the Queen's father. The

[1] The origin of the lozenge has been variously accounted for. According to Sylvanus Morgan, while the form of the shield was taken from Adam's spade, that of the lozenge was derived from Eve's spindle, reminding us of the well-known couplet which formed one of the many quaint inscriptions on the ancient mansion of the Napiers of Wrychtishousis, in the suburbs of Edinburgh, demolished in the year 1800:—

> "When Adam delved and Eve span,
> Quhair war a' the Gentles than?"

The French have a saying relative to the Salic law—*Nunquam corona a lancea transibit ad fusum* (*i.e.*, fusil or spindle).

[2] Plate XIII. fig. 7.

[3] Plate XIII. fig. 8.

dexter supporter—perhaps a unicorn (?)—alone remains. The seal is appended to an indenture, in the General Register House, dated 1439, between the Queen and

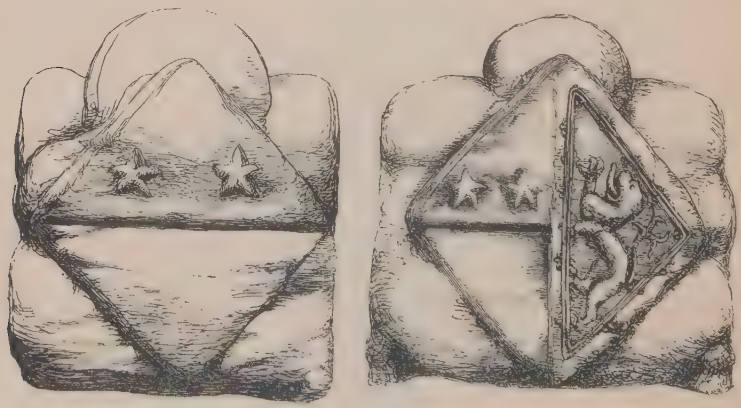
Sir Alexander Livingston and others, by which she surrenders the guardianship of her youthful son, James II.[1] The same arms, without the supporters, are engraved in

an *escutcheon* on the beautiful little gold signet of the same Queen, which was found near Kinross in the year 1829.[2] In Sir David Lindsay's Register, however, the

[1] Plate IX. fig. 1.

[2] Laing's *Catalogue*, No. 44, and *Archæologia Scotica*, iv. 420.

arms of the Queens of Scotland, commencing with "Sanct Margaret," are impaled within lozenges with those of their husbands; and the same arrangement occurs in the portrait of Margaret of Denmark (Queen of James III.) on the interesting altar-piece of Trinity College Church, now at Holyrood Palace, which Mr. David Laing considers to have been painted not later than the year 1484.[1] Two other remarkable examples of lozenges occur on the monument, surmounted by two recumbent figures, within the ruinous choir of the parish church of Dalkeith, supposed to represent James Douglas, first Earl of Morton (who died about 1498), and Johan his wife, third daughter of James I. The lozenge at the head of the male figure



is nearly equally divided by a horizontal line (in heraldic language, "party per fess"), the upper portion being charged with two mullets, the original bearing of the Morton family; while the lozenge at the head of the female figure exhibits the same coat on the dexter side,

[1] *Proceedings of the Society of Antiquaries of Scotland*, iii. 8.

impaled with the Royal arms of Scotland.[1] Three or four late examples of the lozenge occur in the curious set of playing cards, exhibiting the arms of the Scottish Nobility, engraved at Edinburgh in the year 1691.[2] Thus, on the card representing the Queen of Clubs, along with the escutcheon of the Duke of Lennox within a garter, the bearings of Anne Scott, Duchess of Buccleuch, widow of the Duke of Monmouth, figure on a lozenge surrounded by a cordeliere or silver cord, to be afterwards referred to—both the escutcheon and the lozenge, which are placed side by side, being jointly surmounted by a duke's coronet.[3] In England, the lozenge appears to have been used by ladies about the middle of the fourteenth century, as on the seals of Elizabeth Darcie (1347) and Maud Fitzpayne (1356).[4] In the first of these examples, five lozenges are curiously conjoined in the form

[1] *Proceedings of the Society of Antiquaries of Scotland*, iii. 27.

[2] The author is indebted to his friend Mr. David Laing for the loan of a copy of these playing cards. Besides the set belonging to Mr. Laing, there are copies at Abbotsford and Drummond Castle. The first of the set, forming a sort of title-page, exhibits the arms of the City of Edinburgh; and the second, the insignia of the Lyon Office impaled with the bearings of Sir Alexander Erskine, Lyon King-of-Arms. The four Kings (hearts, clubs, spades, and diamonds) bear the arms of Scotland, England, France, and Ireland; the four Queens, those of the Dukes of Hamilton, Gordon, Queensberry, and Lennox—the last being conjoined, as stated in the text, with those of the Duchess of Buccleuch. Three of the Knaves (termed *Princes*) display the ensigns of the Marquises of Douglas, Montrose, and Atholl, the fourth (diamonds) bearing the arms of three Earls—Argyll, Crawford, and Errol. Each of the remaining cards, of which the value is indicated by a number (thus ♡ 7 — signifying the seven of hearts) is occupied by three, and in a few instances four, escutcheons, with the arms of the rest of the Earls and the Lords.

[3] Plate xiv. fig. 8.

[4] Engraved in Dallaway, Plate xxv. See also the curious seal of Nicholas de Canteloup (1359), engraved at p. 36 of Montagu's *Guide to the Study of Heraldry*, exhibiting a shield charged

of a saltire, the centre lozenge exhibiting the lady's arms (on the *dexter* side) impaled with her husband's, while the four other lozenges are charged with her ancestral ensigns. In the second, a single lozenge is charged with the arms of Fitzpayne, and surrounded by various heraldic devices within circular compartments.

Reference has already been made, in the preceding chapter, to the custom of placing a smaller escutcheon (*parmula*) Overall or *Surtout*, *i.e.*, on the fess point of the shield. The seal of Sir William Hay, previously referred to, affords the earliest Scottish example of a shield surtout (exhibiting the paternal arms), being appended to the charter of foundation of the Collegiate Church of St. Bathan's, in the year 1421. The earliest instances in Mr. Laing's *Catalogue* of this mode of marshalling are the seals of Walter Stewart, Earl of Atholl (1430), James, ninth Earl of Douglas (1453), and Alexander Gordon (paternally Seton), first Earl of Huntly (1457), the charges in the shields surtout being a ship (or lymphad), a lion rampant, and three lions' heads, for the Lordships of Caithness, Galloway, and Badenoch respectively.[1]

with the arms of Canteloup, supported by two lions and surrounded by three lozenges, each bearing the ensigns not of his wife, but of her *former husband*, whose lordship she is supposed to have brought to De Canteloup.

[1] Laing's *Catalogue*, Nos. 794, 248, and 361; also Plate IX. fig. 2.

SECTION II.—THE CREST, MOTTO, AND RELATIVE APPENDAGES.

Ancient documentary seals afford many valuable illustrations of the mode of bearing Crests, Helmets, Mottos, and other exterior heraldic ornaments. The CREST (*Crista*), as is well known, was a figure affixed, at an early age, to the warrior's helmet, for the purpose of distinction in the confusion of battle;[1] and there can be no doubt that it was in common use long before the hereditary bearing of coat-armour. In the first instance, crests seem to have been purely personal, and their connexion with the family arms is considered to have been not earlier than the end of the thirteenth, or the commencement of the fourteenth century. They were originally confined to a select few, being given by royal grant; and even at the present day, there are several old English families who have never used them.[2] The assumption of crests (or helmets) by *Clergymen*—a frequent practice both in England and Scotland—besides being improper in itself, is not sanctioned by ancient

[1] At a later period, the same object was served by the *Surcoat*, which was placed over the armour, and embroidered with the arms of the wearer. Stowe mentions that at the battle of Bannockburn "there was slain Gilbert de Clare, Earle of Gloucester, whome the Scottes would gladly have kept for a ransome, if they had known him; but he had forgotten to put on his coat of armes."

Among the Greeks, the helmet was very commonly surmounted by the crest, which was often of horsehair, and made so as to look both imposing and terrible. In the Roman army, the crest served not only for ornament, but also to distinguish the different centurions, each of whom wore a casque of a peculiar form.—See Smith's *Dictionary of Greek and Roman Antiquities*, sub voce "*Galea*."

[2] *Glossary of Heraldry*, p. 93.

precedent,[1] and with the exception of Sovereign Princesses, no *Ladies* are entitled to bear these exterior ornaments. On many of the beautiful altar-tombs exhibiting the recumbent figures of a "baron and femme," in the fifteenth and sixteenth centuries, the crest of both the husband's and the wife's family are sculptured at the feet of the effigies. This, however, appears to be the only occasion on which crests were associated with the softer sex during the best days of Heraldry. Their use is expressly interdicted, in the following terms, at a Chapter of Heralds, held at Broiderer's Hall, London, in the fourth year of England's "Virgin Queen" (1562):—"That noe inheritresse, maid, wife, or widow shall beare or cause to be borne any crest or cognizances of her auncestor but as followeth. If she be unmarried to beare in her ringe cognizances or otherwise the first coate of her auncestors in a lozenge; and during her widowhood to use the first coat of her husband impaled with the first coat of her auncestor, and if she be married with any that is no gentleman, then soe to be exempted from this conclusion."

A few instances of ladies bearing crests, and occasionally also supporters, occur in the second volume of the Lyon Register, about the year 1814, including Miss *William* Boyd Robertson of Lawers, sole heiress of her uncle, Archibald Robertson of Lawers; Mrs. Farquharson of Invercauld; and the "Hon. Dame Mary Frederica

[1] When a clergyman happens to be a peer or a knight, he is entitled to place a helmet and crest over his escutcheon; and several bishops of Durham have timbred their shields, in token of their temporal dignity as earls-palatine.—*Glossary of Heraldry*, p. 162.

Elizabeth Hood Mackenzie of Seaforth," eldest daughter of Francis Lord Seaforth (who died without surviving male issue), and widow of Sir Samuel Hood, Baronet. In a later volume of the same Register (v. p. 58, 1851), under the lozenge containing the arms of Miss Elizabeth Kinnear Stark Dougall of Scotscraig, we find an escroll inscribed with the *motto*, "Stand Fast." No crest, however, is embraced in the illumination, but the usual provision is made for a crest, in the event of the succession of heirs-male, viz., a lion's head erased, gorged with an antique crown, with the motto, "*Auxilio Dei.*"

Corporate Bodies are usually regarded as having a right to carry the arms of their founders, but on what principle they can use helmets and crests, as has been truly observed, "is a question not easily answered."[1] One of the oldest crests used by a corporation (in England) is one of the two borne by the Tallow-chandlers, which is said to have been granted in 1463. The earliest instances of armorial grants to English corporations occur before the middle of the fifteenth century, in the case of the Ironmongers, Drapers, and Vintners of London, to whom crests and supporters were afterwards assigned.[2] Arms were subsequently granted to the principal mercantile companies of London — in some cases, in very bad taste. Thus, the bearings conferred upon the Clockmakers and Coachmakers, in the year 1677, are so confused as to be quite indescribable.

[1] *Glossary of Heraldry*, p. 94.

[2] See Nichol's *Herald and Genealogist*, vol. i. p. 36, for a detailed notice of the Ironmongers' Arms.

Towards the end of the first volume of the Lyon Register, we find the heraldic insignia of several "Colleges, Incorporations, Companies, and Offices within the Kingdom of Scotland," in some cases with the various exterior ornaments, but generally with mottos only. A few blazons of a similar kind also occur in the later volumes. Thus in volume iii. (1826) we have the arms of the *National* Bank of Scotland accompanied by a motto, but without either crest or supporters, the shield being surrounded by two thistles. Again, in volume v. (1849), the original grant to the Bank of Scotland in the year 1701 (to which we have already referred), is "now herein recorded," having been omitted at the proper place. The escutcheon is charged with a St. Andrew's Cross between four bezants (or gold coins), supported by two female figures representing Abundance and Justice, while the crest is a cornucopia diffusing money, surmounted by the motto "*Tanto uberior.*"[1]

In some countries, according to Guillim, and particularly in Burgundy, none under the degree of a knight are allowed to timbre their arms with helmet, crest, etc.; but, both in England and Scotland, a much more extended adoption of these appendages has long prevailed. The seals of Edmund Crouchback, Earl of Lancaster (son of Henry III.), who died in 1296, exhibit the earliest English examples of crests; and their use

[1] These arms are beautifully sculptured over the principal entrance to the Bank. Perhaps the waggish Mr. Punch might be disposed to consider *sable billets* more suitable than bezants, as representing the dirty notes for which Scottish Banks are so unenviably celebrated.

in the time of the poet Chaucer appears from his description of the one borne by Sire Thopas :—

> "Upon his crest he bare a tour,
> And therein stiked a lily flour."

The royal crest of England, a lion upon a cap of estate (now generally placed upon the Royal Crown), appears for the first time on the Great Seal of Edward III., who acceded to the throne in 1327. In 1333, that monarch granted a crest to William Montacute, Earl of Salisbury, and by a subsequent concession made it *hereditary ;*[1] and about the same period a crest was granted to Thomas Andrews by Guyen, King of Arms. According to Dallaway, "crests are not held to be absolutely hereditable, but may be assumed." We incline, however, to agree with another writer, who, on the other hand, asserts that they are "inseparably annexed to individual families," and that "the popular notion, that crests are assumptive at pleasure, has no foundation in the nature or practice of Heraldry."[2] Sir George Mackenzie quotes a grant of a crest by Sir James Balfour, Lyon King of Arms, dated 1631, to Sir James Galloway, "Master of Requests to our dread Sovereign Charles King of Scotland." In compliance with the petition of the said "Master of Requests," that the Lyon may give and assign unto his ancient coat armour (a lion rampant) "a crest, with scroll and motto, which he may bear *without wrong-doing to others,*" the King of Arms assigns a

[1] For the terms of these grants, see Dallaway's *Inquiries*, p. 388, *note*. The second concession embraces a substantial grant of lands "*ut honorem dictæ tymbriæ posset decentius conservare.*"

[2] Article on "Heraldry," *Encyclopædia Britannica*, 8th edit. xi. 337.

suitable crest, scroll, and motto, "as here in the margin adjected is to be seen; all which arms, crest, escroll, and motto, I the said Lyon King of Arms do by these presents ratify, confirm, give, grant, and assign unto the said Sir James Galloway, Knight, *and to his posterity for ever*," etc.[1] In the case of many Scottish families, the same crest appears to have been carried unchanged for a long period. Thus, the swan's neck, which figures on the seal of Sir James Lindsay, Lord of Crawford, in 1371, is also to be found on that of David, ninth Earl Crawford, in 1558.[2] In like manner, the wild boar, which appears as a crest on the seal of Sir James Douglas of Dalkeith, also in 1371,[3] is still carried in the same capacity by his descendant and representative, the eighteenth Earl of Morton. The seal of Alexander Napier of Merchiston (1453) exhibits a hand grasping an eagle's claw, and the same crest is borne by Sir Archibald Napier of Merchiston, seventh in lineal descent from Alexander, in the year 1582. A slight change, however, occurs on the seal of Archibald, first Lord Napier (1627), son of the celebrated inventor of Logarithms—a *crescent* being placed in the hand instead of the eagle's claw;[4] and the former is still carried by Lord Napier, the heir of line of the house of Merchiston.[5] On the other

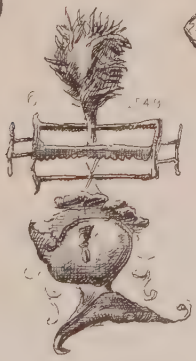
[1] *Science of Heraldry*, chap. ii.

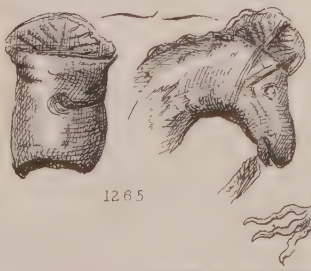
[2] Laing's *Catalogue*, No. 510—Plate IX. fig. 3—and precept of sasine in the possession of the Earl of Crawford and Balcarres. An *entire* swan, "passant," with a ring in its mouth, appears on the seal of David, eleventh Earl of Crawford (1605).

[3] *Ibid.* No. 257; also Plate IX. fig. 4.

[4] *Ibid.* Nos. 621, 625, and 628.

[5] The older crest, however, is borne by the Milliken Napiers (Baronets), the heirs-male of the Merchiston family.





W. & A. K. Johnston, Edinburgh.

hand, it must be acknowledged that a change of crest has been not unfrequent in the heraldic practice of Scotland. Thus, instead of the present well-known crest of the Hamiltons (an oak-tree and frame-saw) we find a *boar's head and neck* on the seal of Sir John Hamilton, the chief of the family in 1388; the oak-tree, however, being carried by James Hamilton, second Earl of Arran and Regent of Scotland, in 1549.[1] Again, the winged dragon, which ultimately became the crest of the Seton family, does not appear on the seals of the earlier Lords—that of William, first Lord (?), exhibiting an *antelope's head* in the year 1384, while on the seal of George, third Lord Seton (*c.* 1440), the crest consists of *two spears or pennons.*[2]

The practice of bearing *two or more* crests, although frequent in Germany and other European countries, has, until recently, been of very rare occurrence in Scotland. Dallaway gives an early English example in the seal of Richard Earl of Warwick, commonly called "The Kingmaker," which displays both the crests and the supporters of the noble Houses of Beauchamp and Montagu.[3] Not a single example, however, of more than one crest is to be found in Mr. Laing's *Catalogue;* and among the numerous plates in Nisbet's largest work,

[1] Laing's *Catalogue*, Nos. 400 and 404; also Plate IX. figs. 5, 6. An earlier heraldic seal of the Hamiltons—probably the same as the one described under No. 399 of Mr. Laing's *Catalogue*—is mentioned by T. Innes as having been extant, in his time, in the Scots College at Paris, viz., that of David Hamilton, in 1361, which Innes thus blazons:—"*Super scuto tria quinquefolia.*"—*Regist. Episcop. Glasg.* vol. i. *Tabula*, p. cxxxii. No. 297, *note* 1.

[2] Laing's *Catalogue*, Nos. 738 and 739.

[3] *Heraldic Inquiries*, plate xxiii.

only one instance occurs, to wit, the achievement of Colonel Alexander M'Dowall, "Baron of Lodvica in Swedland" (a cadet of Mackerstoun), exhibiting *three* crests, and copied from a patent of nobility granted to the Colonel's father by Charles XI. of Sweden, in the year 1674.[1] A curious example of an escutcheon, surmounted by two helmets and crests, occurs on a sculptured stone on the house at Jedburgh, in which Queen Mary passed several weeks of sickness in 1566. The shield contains two coats *impaled*—the dexter side being charged with a bend surmounted by a cost or ribbon wavy, while the sinister also exhibits a bend bearing a mullet between two crescents.[2] Two helmets, of differ-

ent forms, are placed over the dexter and sinister sides of the escutcheon respectively—the one being an approach

[1] See Nisbet's *Heraldry*, i. 413. A most tautological, and consequently unheraldic coat. Two of the three crests are repetitions of the charges in the first and second quarters of the shield; and one of these two crests figures (*i.e.*, for the *third* time) in an escutcheon surtout ensigned with a ducal crown.

[2] The arms in the sinister side are those of the surname of Scott, but the charges in the dexter are somewhat doubtful. Possibly they may be the bearings of the family of Wigmure or Wigmer, as given in Workman's MS., and quoted by Nisbet (i. 103), viz., argent, a bend, sable, charged with another waved, of the field.

to the full-faced, and surmounted by a sunflower (?) for crest, while the other is sidelong, with the vizor open, and surmounted by a bird's head and neck between two displayed wings. Below the shield, on separate scrolls, are two mottos—under the dexter side, "*A Vis La Fin*," and under the sinister, "*Solum Deo Confido*."

A few instances of two or more crests are to be found in the later volumes of the Lyon Register. Thus, Sir Robert Dalrymple-Horn-Elphinstone (1828), Alexander Dundas-Ross-Cochrane-Wiseheart-Baillie of Lamington (1837), and Adam Duncan-Morison of Naughton (1853), each carry three crests, there being, however, at least three different quarterings in their respective escutcheons. In the same record, as previously stated, on the *margin* of a blazon engrossed in the year 1840—being the quarterly coat, with a single crest and motto, assigned to William Mitchell-Innes of Parsonsgreen—we find a *second* crest and motto granted by the Lord Lyon, in 1860, to Alexander Mitchell-Innes of Ayton, eldest son and heir of the original patentee.[1] The anomaly of two or more crests over an *unquartered* escutcheon is occasionally to be met with in these days of "finders" of

The house in question is said to have successively belonged to the Kers of Ferniherst and the Scotts of Ancrum, from whom it passed to Dr. Lindsay, whose sister, "Sweet Isabella," figures in Burns' account of his southern tour in 1787. It is now the property of Mr. Edmonstone.

[1] The crest and motto here referred to were formerly carried by Mr. Alexander Innes, merchant in Edinburgh, descended from the family of Balveny, in the county of Banff—viz., an increscent proper, with the motto, "*Je reçois pour donner*," as in the Lyon Register.—See also Nisbet's *Heraldry*, vol. i. plate ix. fig. 5.

arms and "Professores Artis Genealogicæ."[1] Even in the case of many quartered coats, the competency of bearing more than one crest is extremely doubtful; and owing to the frequency of the practice, an order was issued by the Deputy Earl Marshal of England, in the year 1817, forbidding the assumption of crests, on the adoption of new quarterings in virtue of descent from heiresses and co-heiresses.

Ancient crests, both in England and Scotland, usually consisted of plumes of feathers or animals' heads,[2] composed of stuffed leather, light wood, or metal—such unsuitable figures as rocks, rainbows, and terrestrial globes never having been used when the "noble science" was in its purity.[3] On Scottish seals prior to the middle of the fourteenth century, we find no examples of crests *associated with escutcheons*. Occasionally, however, they are displayed on the helmets of equestrian figures, as on the seals of Patrick Dunbar, seventh Earl of March (1251)—a cross in a crescent; and John

[1] An example of this irregularity occurs in the fourth volume of the Lyon Register (1835), in the case of the achievement of Lord Glenelg.

[2] See several English examples of crests (1345-1414) engraved in Montagu's *Study of Heraldry*, pp. 48, 49.

[3] "For crests men choose what they fancy, only it is not proper to choose such things as could not stand or be carried by warriors upon their helmets, such as balances or such other things, which cannot either stand fixed or wave with beauty."—(Mackenzie's *Science of Heraldry*, chap. xxix.) The crest of Sir Francis Drake, already referred to, would certainly not "wave with beauty" on the top of a warrior's helmet. Some of the figures assumed as crests in very recent times would be even more open to criticism. There is still ample scope, however, for the imaginative powers of the "finders" of arms, to whose consideration we would recommend a steam-engine, a balloon, and a printing-press, as very suitable devices!

Cumin (1292)—a crescent and star ;[1] and also on the beautiful later seal of John Stewart, Earl of Carrick (1380), afterwards Robert III.—a lion's head between two demi-vols.[2] On the seal of Alexander III. (1265), a plume of feathers surmounts the monarch's cylindrical helmet as well as the head of his charger, which latter arrangement also occurs on the seal of the hero of Bannockburn (1317).[3] A lion "statant gardant" is placed, as a crest, on the helmet of the equestrian figure on the Great Seal of Robert II. (1386), but the tuft of feathers on the horse's head is omitted, and does not again present itself on any of the great seals, except that

of James VI. (1583).[4] The present royal crest of Scotland—a crowned lion "sejant affronté"—first appears on

[1] The badge on the first great seal of Richard I. (Cœur de Lion) is a star (probably that of Bethlehem) issuing from between the horns of a crescent ; perhaps symbolical of the ascendency of Christianity over the errors of Mahometanism.

[2] Laing's *Catalogue*, Nos. 286, 222, and 783 ; also Plate IX. figs. 7, 8. On the well-known counter seal of Roger de Quinci, Earl of Winchester, already referred to, a wyvern is placed on the top of the helmet of an armed knight, *on foot*, in combat with a rampant lion.—*Catalogue*, No. 682.

[3] *Ibid.* Nos. 13 and 21 ; also Plate IX. fig. 9.

[4] *Ibid.* Nos. 33 and 67 ; also Plate IX. fig. 10.

the small signet of Queen Mary (*c.* 1564), the original of which—an enamelled ring of exquisite workmanship—is now in the collection of Mr. Richard Greene of Lichfield.[1]

The earliest Scottish example that we have been able to discover of a crest associated with the family arms occurs on the seal of David Lindsay, Lord of Crawford (1345), viz., a key erect.[2] With the exception of the seal of Ranulph Nevile, Lord of Raby (1353), on which a bull's head appears as a crest,[3] the earliest example of a heraldic crest in Mr. Laing's *Catalogue* is the plume of feathers which appears on the seal of William, first Earl of Douglas (*c.* 1356).[4] Between that date and the

[1] Laing's *Catalogue*, No. 66. On the counter seal of James I. (1436), a lion "sejant affronté" is placed at each side of the King's feet.—*Catalogue*, No. 42.

[2] Plate X. fig. 1. This interesting seal is carefully sketched at p. 177 of a MS. volume of General Hutton's, entitled *Sigilla*, in the Library of the Society of Antiquaries of Scotland, containing copies of several seals and charters from the original collection by Sir James Balfour, Lyon King-of-Arms, in the British Museum (*Harl. MSS.* 4693), in which the following memorandum occurs:—"Thir subsequent sealls (including those of Roger de Quinci and David Lord of Crawford) is appended to divers charters, donations, resignations, and descharges, geven to y^e^ Lords Setoune, wich I thought not meitt heir to minutte with their sealls, and have contented myselve to preserve the same to posterity from the injuries of tyme." Lord Lindsay considers that the *key* was probably adopted as a crest, in consequence of the bearer having had the custody of the castle of Berwick or that of Edinburgh. The swan, the usual crest of the family, ultimately came to be regarded and represented as an *ostrich*; and it is somewhat singular that the crest of the Lindsays of Kirkforthar *combines* the bird and the key, being an ostrich with a key in its bill.

[3] Laing's *Catalogue*, No. 634.

[4] *Ibid.* No. 237; also Plate X. fig. 2. The earliest known seal of the Douglases (which is not included in Mr. Laing's *Catalogue*) is the signet of William Lord Douglas, appended to a deed of homage to Edward I., in the year 1296, on which the three *mullets* are represented on a chief in a heater shield placed between two lizards. The *heart* first appears (along with the mullets) on the seals of William first Earl of Douglas (*c.* 1356), and ensigned with a *crown* on that of William eleventh Earl of Angus, in 1617.—*Catalogue*, Nos. 236, 237, and 255.

beginning of the fifteenth century, at least twenty-four examples occur in Mr. Laing's *Catalogue*, the date of the earliest (Sir Thomas Erskine) being 1364, and of the latest (Sir William Cuningham of Kilmaurs) 1398.[1] No fewer than eight of these twenty-four seals are appended to the Act of the Scottish Parliament settling the succession to the Crown in 1371, still preserved in the General Register House.[2] The families of Stewart, Douglas, Lindsay, and Erskine, each contribute three, and the Flemings two examples;[3] while the remaining ten pertain to the surnames of Dunbar, Dyschington, Fraser, Keith, Mar (?), Seton, Mercer, Hamilton, Ruthven, and Cuningham.[4] Nineteen of these twenty-four crests consist of the heads of animals—in a few instances accompanied by wings and other appendages—including the horse, wolf, stag, lion, antelope, goat, boar, ram, dragon, eagle, swan, and peacock.[5] Of the other five, two are wild boars "passant" between two trees,[6] while the

[1] Laing's *Catalogue*, Nos. 311 and 1215; also Plate x. fig. 3.

[2] *Ibid.* Nos. 257, 294, 304, 310, 350, 463, 510, and 511.

[3] *Ibid.* Nos. 1241, 782-3, 787—257, 239, 261—510, 511, 512—310, 311, 312—337 and 338.

[4] *Ibid.* Nos. 294, 304, 350, 463, 568, 738, 586, 400, 708, and 1215.

[5] The *boar's head* "garnished brave" and the "princely *peacock's* gilded train" are both noticed in Canto vi. of the *Lay of the Last Minstrel*. The former was a usual dish of feudal splendour. In Scotland it was sometimes surrounded with little banners displaying the colours and achievements of the baron at whose board it was served.—(Pinkerton's *History*, i. 432.) The peacock was considered, during the times of chivalry, not merely as an exquisite delicacy, but as a dish of peculiar solemnity. After being roasted, it was again decorated with its plumage, and a sponge dipped in lighted spirits of wine was placed in its bill. When it was introduced on days of grand festival, it was the signal for the adventurous knights to take upon them vows to do some deed of chivalry, "before the peacock and the ladies."

[6] Laing's *Catalogue*, Nos. 257 and 261.

remaining three consist of a unicorn "sejant," a garb (?), and a bird's wing fesswise, charged with a bend between six cross crosslets, being the figures in the relative escutcheon.[1]

Unless otherwise expressly mentioned, the crest is understood to be placed upon, or, more strictly speaking, *within* a WREATH, consisting of a twisted garland or fillet of silk,—believed to have been copied by the crusaders from the turbans of the Saracens,—by which the crest and mantling are supposed to be fastened to the helmet. The wreath was twisted together by the lady who chose the wearer as her favourite knight in the days of tilts and tournaments. About the middle of the fourteenth century, it took the place of the cointise or lady's scarf,—called the "kerchief of plesaunce,"—which was attached to a staple at the apex of the tilting-helm.[2]

> "There many a youthful knight, full keen
> To gain his spurs, in arms was seen,
> With favour in his crest or glove,
> Memorial of his ladye-love."[3]

> "Fair lord, whose name I know not, will you wear
> My favour at this tourney? . . . . .
> . . . . . Then he bound
> Her token on his helmet."[4]

[1] Laing's *Catalogue*, Nos. 1215, 304, and 568.

[2] An example of the cointise occurs on the seal of Thomas, Earl of Lancaster (grandson of Henry III.), who was beheaded in 1322.—See Planché's *Pursuivant of Arms*, p. 175.

[3] *Lay of the Last Minstrel*, Canto iv. stanza 19.

[4] Tennyson's *Idylls*, "Elaine."

"Many of the greatest tournaments," says Brydson, "were held at the marriages of princes. Accordingly, the custom of giving *Favours* at marriages continues to the present day." — *View of Heraldry*, p. 50.

The wreath is usually tinctured with the principal metal and colour in the escutcheon alternately,[1] and should always consist of an equal number of divisions, which are now restricted to six. In thē case of a quartered coat, only the tinctures of the paternal arms ought to appear in the wreath. Sir George Mackenzie, however, considers that the wreath should embrace all the tinctures of the escutcheon, beginning with the field, and proceeding with "the immediate charge, and after that the next mediate, and so forth, if there be more charges than one." He even includes the red "members"

[1] In like manner, the *Liveries* of servants and retainers are generally of the principal metal and colour of their master's arms. According to Du Cange, the splendid habits which royal households anciently received at great festivals were called "Liveries," from the circumstance of their being *delivered* or presented by the Sovereign—such occasions being termed *Liberationes*. The Badge (to be afterwards referred to) was generally represented upon a ground tinctured of the livery colours of the family. In the days of chivalry, even a duke's son, as page to a prince, did not disdain to wear his master's livery. An esquire's son willingly wore the livery of the knight whom he served; and a gentleman's son, similarly dressed, performed the duty of servant to the esquire. Since the reign of Charles II., however, livery has only been worn by the lower class of male household servants, who are usually addressed by their Christian names. Many of the appendages of livery may be traced to fashions in dress once patronized by noblemen. The long waistcoat of the groom is the old under-coat of the esquire, and the three-cornered hat of the coachman—the acknowledged chief of the liveried corps — once figured at Court on the brows of the aristocracy.—(See *Ency. Brit.* 8th edit. xiii. 524). The liveries adopted by the Sovereigns of England have been as follows:—The later Plantagenets—white and red; the House of York — murrey (blood colour) and blue; the House of Lancaster—white and blue; the House of Tudor — white and green; the House of Stuart —yellow and red (the tinctures of the national escutcheons of both England and Scotland); and the House of Hanover—scarlet and blue. William III. used the same colours as the House of Stuart, but before his accession, blue and *orange*. Prior to their succession to the English throne, the House of Hanover used yellow and red.

of an eagle; and regards ermine as a twofold tincture, viz., *argent* and *sable*, seeing that "fur is not fit to be twisted in a wreath."[1] This rule appears to have been occasionally followed in England, as appears from the grant of a crest to the city of Exeter, in the year 1580, where the wreath is blazoned *or*, *gules*, and *azure*—these being the tinctures in the relative shield.

The earliest example of a wreath, discovered by Sir Samuel Meyrick, occurs on the monument of Sir John Harsick (1384), figured at page 300 of Newton's *Display of Heraldry*. Earlier instances, however, are given by both Mr. Montagu and Mr. Planché, viz, the seal of Sir John Willoughby (1340), and the effigy of Sir Humphrey Stafford (*c.* 1350).[2] Among the earliest Scottish examples we may mention the seals of Sir Thomas Erskine (1364), Sir Alexander and Sir David Lindsay, Lords of Glenesk (1371-89), and Henry Douglas, Lord of Lugton (1392)—all already referred to—on which the wreath is very distinctly represented. On the seal of Robert Stewart, Duke of Albany and Regent of Scotland (1389), the crest—a boar's head and neck between two trees—issues from a wreath *checquy*, somewhat similar to the fess in the escutcheon; and the same kind of wreath appears on one of his later seals (1403), and also on that of his son, Murdoch, Duke of Albany (1421).[3] A Saracen's head, "vested in a turban, bound with a fillet," is the crest on the seal of Sir John Maxwell of Polloc

[1] *Science of Heraldry*, chap. xxviii.

[2] *Study of Heraldry*, p. 40, and *Pursuivant of Arms*, p. 176.

[3] Laing's *Catalogue*, Nos. 787, 788, and 789.

(*c.* 1400) and has the appearance of being placed on a wreath, which, however, is not very distinct.[1] From the circumstance of the crest being placed *within* the wreath (as already mentioned), it is hardly necessary to add that, although generally only shown edgewise above the shield or helmet, it is in reality a circular cord or garland. A curious illustration of its actual form occurs over an impaled escutcheon, exhibiting the ensigns of Ker and Halket, which surmounts the entrance to the burial-vault of the family of Cavers-Carre, in the parish church of Bowden, Roxburghshire. Between the initials $_{T}{}^{S}{}_{K}$ (Sir Thomas Ker), and $_{G}{}^{D}{}_{H}$ (Dame Grissel Halket, his third wife), an erased stag's head is placed as crest

over a circular (or rather oval) wreath, which is ornamented with a series of angular figures resembling lozenges or mascles. The date under the arms, in the moulding of the doorway, is 1661, being twenty-three years after the union which the shield commemorates.

Instead of being placed upon a wreath, the crest is sometimes represented as issuing from a Ducal Coronet

[1] Laing's *Catalogue*, No. 574; also Plate x. fig. 4.

or surmounting a CHAPEAU, usually called a cap of dignity or maintenance. Owing to the perishable material of which they were originally composed, wreaths were occasionally wrought in gold to render them more permanent; and Mr. Newton conjectures that these golden wreaths may have suggested the idea of the ducal coronet.[1] Early English examples of the ducal coronet occur on the seals of Richard, Earl of Arundel (1346), and William le Scrope (1394), engraved in Montagu's *Study of Heraldry;* and at the present day, the Duke of Marlborough and Lord Spencer both carry a demi-griffin issuing from a ducal coronet, in consequence of their descent from the ancient family of Le Despenser, by which a similar crest was borne. Three Scottish instances of the ducal coronet occur in the year 1371, on the seals of George Dunbar, eleventh Earl of March, Sir Robert Erskine, and James Fraser of Frendraught[2]—the coronet, in the first of these examples, consisting of three points. The crest issues from the same figure on at least three other later seals of the same century, viz., those of Alexander Cockburn (1375), Walter Stewart, afterwards Earl of Atholl (1389), and David Lindsay, first Earl of Crawford (*c.* 1389).[3]

Towards the middle of the fifteenth century, we have

[1] *Display of Heraldry*, p. 305.

[2] Laing's *Catalogue*, Nos. 294, 310, and 350; also Plate x. fig. 5.

[3] *Ibid.* Nos. 182, 793, and 513. See also Nos. 796, 1201, 305, 267, and 322, as examples of the ducal coronet during the fifteenth and sixteenth centuries. On the seal of Sir William Edmonstone of Duntreath, 1400 (No. 305), the form of the coronet, which is very distinctly represented, is somewhat different from that of the eleventh Earl of March (No. 294); and on the later seal of John Erskine, Earl of Mar, in 1596 (No. 322), it consists of no fewer than *nine* points.

two Scottish examples of the crest placed on a cap of dignity or maintenance, in the seals of Walter Stewart, Earl of Atholl (1430), and George, third Lord Seton (*c.* 1440) ; while a comparatively late but very decided instance is afforded by the seal of William Douglas, eleventh Earl of Angus, in 1617.[1] Formerly the ducal coronet appertained only to military leaders, to whom it was adjudged as a symbol of victory, or to knights who had taken part in the more ancient tournaments ; and many old families still bear their crests in conjunction with a ducal coronet, to commemorate the fact of some heroic ancestor having been invested with that honourable distinction. Numerous examples occur in the peerage and also among the gentry of both England and Scotland. We have a highly appropriate modern instance of the adoption of a crest issuing from a ducal coronet, in the case of the great Duke of Wellington, who was thus emblematically indicated as the victorious leader of the British Army. On his stall-plate at Windsor, the crest of Sir Simon de Felbrigge (who died in 1442)—a plume of seven feathers—is placed above a ducal coronet, "which crown, in that age," says Anstis, "was a proof that he was a gentleman (as the term was) *de nom, d'armes, et de cry*, which cry or motto was *sanz juver*."[2] In the time of Queen Elizabeth, chapeaux and crowns of various forms[3] appear to have been indiscriminately

[1] Laing's *Catalogue*, Nos. 794, 739, and 255. The English seal of Richard Duke of York (1430), engraved by Dallaway (Plate 23), exhibits a very distinct chapeau of estate, as well as every other armorial distinction peculiar to one person.

[2] See also Brydson's *View of Heraldry*, pp. 189, 190.

[3] In modern heraldic practice,

granted instead of wreaths by Robert Cooke, Clarenceux King-of-Arms, and in later times many families, both in England and Scotland, have assumed these marks of honour without having the very slightest claim to such a distinction. By the existing regulations, however, the Earl-Marshal of England prohibits the painting of crests issuing from ducal coronets, or placed upon chapeaux; and some such wholesome rule might, with great propriety, be adopted by the heraldic authorities of Scotland.

According to Selden, the well-known CORONETS pertaining to the several orders of the peerage had acquired some approximation to their present form as early as the reign of Henry IV. (1399-1413), but they are generally supposed not to have been strictly assigned to the different ranks until a considerably later period. In the year 1665, King Charles II. granted his royal warrants to the Kings-of-Arms for Scotland and Ireland, for the nobility of those kingdoms to wear coronets similar to those of the English peers. Probably one of the earliest Scottish examples of a coronet, *above the shield of arms*, occurs on the seal of Alexander Stewart, Duke of Albany, second son of James II. (1473).[1] It consists of *five* points, being surmounted by a saltire between two mullets; and is similarly represented on a sculptured tablet which adorned one of the southern buttresses of Trinity College Church, Edinburgh, before its wanton

mural, naval, vallary, and antique (or eastern) crowns, are also occasionally appropriated as armorial insignia to support the crest instead of the wreath, as in the case of Cameron of Fassifern, Lord Northesk, Seale of Mount Boone, in the county of Devon, and Stirling of Drumpellier.

[1] Laing's *Catalogue*, No. 790; also Plate X. fig. 6.

demolition in the year 1849. Two later examples appear on the seals of the Duke and Duchess of Chatelherault (1560), the former being described by Mr. Laing as a "ducal coronet," and the latter as an "open coronet of *nine* points."[1] Above the shield, on the seal of the Regent Moray (1567), we find a coronet of *twelve* points;[2] while under the crest and *upon the helmet* surmounting the escutcheon on the brass plate (now at Donibristle), which formerly was attached to his monument in the Cathedral Church of St. Giles (1569), a coronet is engraved, consisting of *seven* balls resting upon a rim or circlet, very similar to the coronet assigned to viscounts by James I. of England.[3] The same arrangement occurs on the seal of John Drummond, second Earl of Perth (1631), where the crest (which is lost) surmounts a coronet of *nine* points; and on the earlier seal of Robert I. (1317), a "crown of three strawberry leaves" is placed above the helmet of the equestrian figure.[4] As two other examples of coronets above armorial shields, during the seventeenth century, we may refer to the seals of Ludovic Stuart, second Duke of Lennox (*c.* 1600)—a ducal coronet, and James Scrymgeour, Viscount Dudhop (1643)—an open coronet of *five* points.[5] A prettily shaped coronet of five points occurs, without

[1] Laing's *Catalogue*, Nos. 405, 406.

[2] *Ibid.* No. 808.

[3] This interesting plate—one of the few remaining examples of a monumental brass in Scotland—is admirably engraved in the *Proceedings of the Society of Antiquaries of Scotland*, vol. i. p. 196. Its removal was another of the many instances of vandalism perpetrated by the civic authorities of the Scottish metropolis. —See Wilson's *Memorials of Edinburgh*, ii. 170.

[4] Laing's *Catalogue*, Nos. 281 and 21; also Plate x. fig. 7.

[5] *Ibid.* Nos. 806 and 732.

any armorial bearings, on a monumental slab in Seton Chapel, East-Lothian, commemorative of Jean Fletcher,

first wife of Alexander Seton, first Viscount Kingston, who died in the year 1651.

While in this part of the world the coronet is regarded as the characteristic mark of the peerage, on the continent of Europe its use is pretty freely extended to a *countless* host of counts and barons, who constitute the "Noblesse," a term which includes all the descendants, direct and collateral, of every family of distinction. In the absence of this comprehensive system, some curious expedients have occasionally been resorted to in this country for the purpose of impressing the unsophisticated public with false notions of aristocracy. Thus, the unfortunate "Perdita" —the prototype, we presume, of the notorious "Skittles" of Rotten Row –had a basket with four white roses painted over the initials on her curricle, in such a skilful manner that it was easily mistaken at a distance for a *baron's coronet!* And, in like manner, a certain private gentleman, of an ambitious turn of mind, caused his chariot to be painted *the colour of his crest*, in order that the ducal coronet from which it issued might appear to be the distinguishing mark of the owner's dignity.[1]

[1] A somewhat unusual crest is now carried by the Morays of Abercairney, viz., an *earl's coronet*, surmounted by the star or mullet which the family formerly bore without any such accompaniment.

As we have already indicated, only the escutcheon appears on the earliest heraldic seals, unaccompanied by helmet, crest, or other exterior ornament. The seals of the latter half of the fourteenth century, to which we have particularly referred in noticing the oldest examples of the crest, afford also the earliest instances of the HELMET as an accessory to the coat of arms. According to l'Oseau, gentlemen did not adorn their achievements with helmets till the burgesses of Paris were authorized to bear coat-armour by warrant of Charles v. (*c.* 1370); and by one of the articles of the statutes of Orleans, all who were not gentlemen by birth were interdicted from bearing helmets on their escutcheons. There can be no doubt that heraldic helmets were not originally distinguishing insignia of rank. The five different forms now in use do not appear to have been employed in England for the purpose of distinction, before the reign of Queen Elizabeth; and on all the more ancient seals and tombs (both English and Scotch), pertaining to every rank, the helmet is represented *in profile* with the vizor closed, and somewhat resembling that now appropriated to the rank of Esquire. According to Menestrier, "all helmets were, of old, close and plain, until their metal, number of bars, and situation came to be taken notice of, and that not long ago, but since the year 1559, when the French gave over the use of tournaments, upon the accident which happened to King Henry II. of France, jousting in disport at a tournament with Gilbert (?), Earl of Montgomery, Captain of the Scots Guards, who thereby was wounded in

the eye with the splinter of a spear, of which his majesty died."[1]

The *barred* helmet in profile first appears, in England, at Windsor, on the garter-plate of Henry Radcliffe, Earl of Sussex, who was installed in 1589 ; and by the year 1615, it seems to have been adopted as the characteristic mark of the several Orders of the Peerage. The close, sidelong helmet is frequently used in engravings of the armorial insignia of Baronets and Knights in the seventeenth century ; and it is supposed that the *full-faced* open helmet may have become their peculiar distinction, about the time of the restoration of Charles II. Notwithstanding the similarity of the English and Scottish practice as to the bearing of helmets, Sir George Mackenzie considers that "it were fitter to give Kings helmets fully open without guard-visures, as the French do, than to Knights, as we do ; for Knights are in more danger, and have less need to command. And seeing all nations agree that a direct standing is more noble than a side-wise standing, I see not why the helmet of a Knight should stand direct, and a Duke's only side-wise."[2]

On all the Scottish seals pertaining to the latter half of the fourteenth century, and exhibiting the earliest examples of heraldic crests, the helmet presents a quaint, angular, antique appearance, very much in harmony with the general design.[3] During the fifteenth century, its shape becomes much *rounder*, and on the whole less

[1] See *Les Ecossais en France*, par Francisque-Michel, vol. ii. p. 1.

[2] *Science of Heraldry*, chap. xxvi.

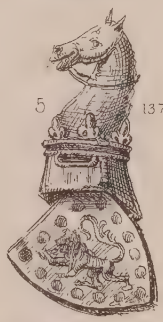
[3] See Plate x. fig. 8.

1345

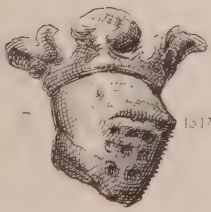
1356

1364

4 c 1400


5 1371

6 1473


7 1517

8 1403

9 1445

10 1568

11
1478

12
137

13 1406

elegant; as on the seals of Alexander, Lord of the Isles (1440), Archibald Douglas, Earl of Moray (1452), and William Drummond (1491).[1] In the following century, we meet with a few examples of the *full-faced* helmet; as on the seals of John, fourth Lord Hay of Yester (1556), and Archibald Campbell, fifth Earl of Argyll (1563)—an approach to this form (something between full-faced and three-quarters) being exhibited on some of the seals towards the end of the fifteenth century, as on that of James Douglas, Lord of Dalkeith (1478).[2] According to Nisbet, "when there are *two* helmets placed on an escutcheon of arms, they look to one another of whatsoever quality the possessor be; and when there are three helmets, that in the middle is placed fronting, and the other two *contourné*, *i.e.*, turned to it; and if there be four helmets on a shield, two look to two."[3]

The use of more than one helmet, although very frequent in Germany (in accordance with the practice of displaying a multiplicity of crests),[4] is of very rare occurrence on either side of the Tweed. Not a single example is furnished by Mr. Laing's *Catalogue;* and, indeed, the stone at Jedburgh, already referred to, is one of the few Scottish instances that has come under

[1] Laing's *Catalogue*, Nos. 451, 268, and 280; also Plate x. fig. 9.

[2] *Ibid.* Nos. 1228, 1209, and 262; also Plate x. figs. 10, 11.

[3] *System of Heraldry*, vol. ii. part iv. p. 6.

[4] Many of the German princes and nobility bear as many as eight or ten helmets and crests over their escutcheons, "according to the principal arms within the shield, and to the number of fiefs by which the bearer is entitled to vote in the circles of the empire."—Brydson's *View of Heraldry*, p. 147.

our notice. On some of the recently erected stained-glass windows in Glasgow Cathedral, embracing more than one shield of arms, the position of the helmets indicated by Nisbet appears to have been only partially kept in view; as on the beautiful three-light window presented by Mr. Stirling of Keir, exhibiting three escutcheons, of which the dexter one (speaking heraldically) is timbred with a helmet *contourné*, *i.e.* turned (contrary to the general rule) to the sinister, while those over the two other shields occupy the usual position.

Attached to the helmet is the MANTLING (or Lambrequin), of which the usually *jagged* form is said to represent the cuts which it is supposed to have sustained in action. It had its origin from the cointise or scarf, already referred to; and in an English grant of arms, in the year 1334, the cointise with tassels had a cloak-like appearance, and is there called a "mantell."[1] Contrary to the judgment of Sir George Mackenzie, the mantle is often taken to be a "Robe of Estate," which may be either of the principal colour and metal of the arms, or the *outside* may be embroidered with the bearings themselves, as on several of the windows in Glasgow Cathedral.

Both in England and Scotland, for a considerable length of time, the mantling has generally been painted *red*, lined (or doubled) with *white*, but properly, like the wreath, it should consist of the principal colour and metal of the bearer's arms—some say the *two first mentioned* in the blazon—the metal being used for the

[1] Article on "Heraldry," *Encycl. Brit.* 8th edit. xi. 337.

doubling. In Scotland, the mantlings of the nobility have long been red doubled with *ermine;* and it appears to be an established rule among Heralds that no man of lower rank than a Knight should double his mantle with that aristocratic fur. The Royal mantle in England, since the days of Queen Elizabeth, has generally been of cloth of gold, lined with either ermine or white. In the illuminations in the Lyon Register, red and white are the colours almost invariably adopted ; but exceptions occasionally occur, as in the achievement of Sir Frederick Pollock, already referred to, where the mantling is *blue* lined with *gold—azure* and *or* being the tinctures in the escutcheon.

Nearly all the crests on the Scottish seals of the fourteenth century are placed upon helmets without any mantling. In one or two instances, however, a species of mantling appears to be introduced, as on the seals of John, son of Alan Stewart of Ochiltree (1377), and Sir John Hamilton (1388).[1] It is distinctly represented on the seal of John of Dumfries, son and heir of John Michelsone, burgess of Edinburgh (1400),[2] and also on several seals pertaining to the latter half of the fifteenth century (1445-98);[3] but it is not the invariable accompaniment of the helmet even during the following century.[4]

The Motto (or legend), formerly called in Scotland the *Ditton,* consists, as everybody knows, of a word or

[1] Laing's *Catalogue*, Nos. 1242 and 400; also Plate x. fig. 12.

[2] *Ibid.* No. 282; also Plate x. fig. 13.

[3] *Ibid.* Nos. 534, 248, 621, 224, 422, and 724.

[4] Seal of John, fourth Lord Hay of Yester (1556).—*Catalogue*, No. 1228.

sentence upon a ribbon or scroll, which in France and Scotland is frequently placed *above the crest*, while in England, on the other hand, it is almost invariably disposed below the escutcheon. Sir George Mackenzie considers that the position of the motto should vary according to its import—that if it relates to the crest it should be placed above that figure, and if to the arms or supporters, under the achievement. It so happens, however, that many mottos have no apparent reference to any portion of the armorial insignia, and accordingly Sir George's rule is not capable of universal application. Where such relation does exist, the suggested arrangement is, of course, highly appropriate, and sometimes proves very suitable where more than one motto is used; as in the case of the Earl of Winton's achievement, which exhibits no fewer than three mottos, of which one is placed over the crest, another in connexion with the shield, and a third on the scroll or compartment bearing the supporters.[1]

About the middle of the fifteenth century, the use of coat-armour was to a great extent relinquished by the Italian leaders, who caused certain emblems to be painted on their shields, illustrated by short classical quotations, descriptive either of some particular enterprise, or of the general character of the bearer.[2] These emblems, termed

[1] Nisbet's *Heraldry*, vol. ii. part iv. p. 23.

[2] See *Heraldic Inquiries*, p. 391. Mr. Dallaway considers that an impress properly defined is "a painted metaphor or rather an enigma inverted." "Enigmas," he says, "represent nature or art by the events of history or the adventures of fables. An impress is a representation of human qualities by natural or artificial bodies."

impresses (from the Italian word *impresa*) are referred to by Milton :—

> "Races and games,
> Or tilting furniture, emblazoned shields,
> *Impresses* quaint, caparisons and steeds,
> Bases and tinsel trappings, gorgeous knights
> At jousts and tournaments."[1]

Being only of personal import and changeable at pleasure, these impresses were entirely distinct from hereditary bearings, and only for a short time found favour in England.[2] The adoption of the motto as an accessory to the heraldic achievement, which had been pretty common during the latter portion of the fourteenth century, gradually became more and more extended, and the

[1] *Paradise Lost*, Book ix.

[2] According to Anstis (*Ord. Gart.*, p. 184), the age of Edward III. "did exceedingly abound with impresses, mottos, and devices;" and that monarch himself, "upon almost every occasion, was much inclined thereto, so far as that his apparel, plate, beds, household furniture, shields, and even the very harness of his horses, and the like, were not without them." Maxims and pithy sayings appear to have been in great favour in Scotland, in connexion with architectural embellishment, particularly during the sixteenth and seventeenth centuries. Many existing edifices furnish examples, both outside and in the interior. Thus, over a doorway at Glenbucket Castle, in Aberdeenshire, with the date 1590, we have "No·thing·on·earth·remanis·bot·faime" (*i.e.*, good repute); and round a shield of arms in the staircase of Craigievar Castle, in the same county, "Doe·not·vaken·sleiping·dogs," the date being 1668. Many of the houses in the old town of Edinburgh supply interesting examples, of which several will be found in Dr. Daniel Wilson's *Memorials*, and Mr. Robert Chambers' paper on the "Ancient Domestic Architecture of Edinburgh." A curious motto occurs over an ancient doorway, at the foot of the Horse Wynd: "Gif·ve·deid·as·ve·sovld·ve·myght·haif·as·ve·vald;" and another formerly surmounted an old lintel of one of the Templar Lands, in the West Bow: "He·yt·tholis·overcvmmis," which has lately been reproduced on a modern mansion-house in the southern suburbs of Edinburgh. Scriptural texts are of frequent occurrence; as over the principal door-

inscribed scroll still retains its place as an external ornament of very general acceptation. Although considered by many, like the crest, to be of arbitrary usage, the motto has been rarely changed, either in England or Scotland, by families of ancient lineage, and has generally proved to be as hereditary in its character as the charges in the escutcheon. In the case of the Johnstones of Annandale, however, the old motto, "Light thieves a'" (*i.e.*, Alight from your horses and surrender), originally used as a slogan, was relinquished for the more dignified legend which they now carry, "Nunquam non paratus."

Mottos are very rarely to be met with on ancient seals. Mr. Montagu informs us that in the course of his examination of many hundred early seals, as well as numerous drawings and engravings in the British Museum, he has only been able to discover about half a

way of Northfield House, in the village of Preston, East Lothian :— "Excep . the . Lord . bvld · in · wane · bvlds · man."

At Earlshall, in Fife, and Pinkie House, near Musselburgh, we find numerous instances of *interior* inscriptions. Towards the end of the sixteenth century, Pinkie belonged to the accomplished Chancellor Seton, who appears to have had a passion or *Latin* inscriptions, chiefly moral apophthegms, such as the following, which occurs over one of the fireplaces :—

"Non cede adversis rebus,
Nec crede secundis."

The taste for these mottos appears to have greatly revived during the last twenty years, and in some of our principal mansion-houses, the visitor meets with legends at every turn. Dr. Johnson suggests Νὺξ γὰρ ἔρχεται (John ix. 4), as a very suitable motto for a *clock ;* and for a *paper-cutter*, we have somewhere seen the following, from Lucretius, recommended :—

"Avia Pieridum peragro loca nullius ante
Trita solo."

Probably one of the most appropriate inscriptions that could possibly be adopted is embraced in the following words of Seneca, which are equally suitable for the rich man's *silver-plate* and the poor man's *earthenware :*—"Magnus qui fictilibus utitur tanquam argento, nec ille minor qui argento tanquam fictilibus."

dozen examples.[1] One of the very earliest English instances of a motto is afforded by the seal of Sir John de Byron, appended to a deed dated 1293, on which the legend is "*Crede Beronti*"—the motto of the present family of the same surname being "*Crede Biron.*" The occurrence of mottos on early Scottish seals is also extremely rare. They are less frequent on baronial than on ecclesiastical seals, being generally, in the case of the latter, of a devotional character. The earliest example of a motto in Mr. Laing's *Catalogue* is on the seal of Isabella, wife of William Wallace (*c.* 1160)—the legend being "*Frange me docebo te.*"[2] Nine instances occur during the thirteenth century, including the following:—

Robert Bruce, Lord of Annandale (*c.* 1240)—"*Esto ferox ut leo.*"

Patrick Dunbar, seventh Earl of March (1251)—"*Sigillum amoris.*"

Alexander III., King of Scotland (*c.* 1260)—"*Esto prudens ut serpens et simplex sicut columba.*"

Patrick Dunbar, tenth Earl of March (1292)—"*Parmi ces haut bois conduray mamie.*"

Brian Fitzalan, one of the Guardians of Scotland (1292)—"*Tot capita tot sentencie.*"[3]

Only one example appears during the following cen-

[1] *Study of Heraldry*, p. 55.

[2] Plate XI. fig. 1; also Laing's *Catalogue*, No. 837.

A very early example of a legend occurs on the seal of Thor Longus (*c.* 1100), who is supposed to have been one of the English settlers in Scotland when Edgar, son of Malcolm Canmore, was placed on the throne through the instrumentality of Edgar Atheling. The seal, which is oblong, is appended to a charter in the archives of the chapter of Durham, and exhibits a robed figure, holding a sword in his right hand, and surrounded by the legend, "Thor me mittit amico."—See *Catalogue of the Museum of the Archæological Institute*, exhibited at Edinburgh, in 1856, p. 92.

[3] Laing's *Catalogue*, Nos. 138 (Plate XI. fig. 2), 287, 15-16, 293, 336. See also Nos. 689, 17, 455, and 481.

tury, viz., on the seal of Archibald Douglas, Lord of Galloway (1373), which exhibits as a crest, issuing from a tower with battlements, the head and neck of a peacock, holding in his beak an escroll, the legend on which has unfortunately not been decyphered.[1]

In a strictly heraldic sense, however, no mottos have yet been met with on Scottish seals earlier than the sixteenth century, and even during that period the number is comparatively limited. Probably the oldest Scottish heraldic motto is that of the Lindsays, Earls of Crawford —being the same as the name of their herald, already referred to—viz., "Endure," to which the word "fort" or "furth" was afterwards added, and which may perhaps have been derived, as suggested by Mr. Riddell, "from their loyalty and *endurance* in the Royal cause." As other examples we may mention the seals of—

David Cuningham (1500)—"*Defende me Deus.*" (?)
Margaret, Queen of James IV. (1526)—"*In God is mi Traist.*"
James Hepburn, Earl of Bothwell (1558)—"*Keip Tryst.*"
(Afterwards husband of Queen Mary.)
James Hamilton, third Earl of Arran (1560)—"*Threucht*" (Through).
Mary, Queen of Scotland (*c.* 1564)—"*In Defens.*"
Archibald Douglas, eighth Earl of Angus (1572)—"*Jamais Arriere.*"
Robert Stuart, sixth Earl of Lennox (1578)—"*Avand Dernlie.*"
John Ruthven, third Earl of Gowrie (1597)—"*Deid Schau.*"
Alexander Seton, Lord Urquhart and Fyvie (1598)—"*Semper.*"[2]
(Afterwards Earl of Dunfermline.)

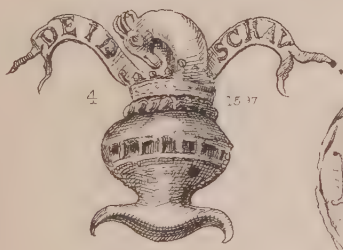
[1] Plate VII. fig. 9; Laing's *Catalogue*, No. 239.

[2] *Ibid.* Nos. 225, 55, 1231 (Plate XI. fig. 3), 407, 66, 253, 804, 713 (Plate XI. fig. 4), and 741. See also Nos. 405, 711, 308, 59, 64, 464, 815, and 322. The second word of Lord Bothwell's motto (*Tryst*) is expressed in *Monogram*—a species of device very much in fashion in the present day Two other examples of the monogram occur in Mr. Laing's *Catalogue*, viz.,

1
c 1100

2
c 1240

3
KEIP
1538


4
1547

1560

6
1429

1480

1484

1484

In the case of four of these eight examples, the scroll containing the motto is placed above, while in the other four it is below the achievement. The seals of the seventeenth century, in Mr. Laing's *Catalogue*, furnish even fewer examples of mottos than those of the preceding century: indeed, the following four will probably exhaust the list:—

Alexander, first Earl of Home (1605)—"*Treu to ye end.*"
Sir David Carnegie of Kinnaird (1606)—"*Dred God.*"
David Murray, Lord Scone (1628)—"*Spero Meliora.*"
William Graham, Earl of Menteith (1636)—"*Right and Reasonn.*"[1]

On Lord Scone's seal, the scroll is placed at the *sides* of the shield; while, in the case of the three others, it is associated with the crest or helmet. To these four instances we can add two other seals, on which, however, the legends are unfortunately illegible; the first being the seal of James, Lord Bellenden (1604), which exhibits a motto both above and below the escutcheon, and the other that of James, Lord Colvil of Culross (*c.* 1630),

on the seal and counter-seal of Archibald, fourth Earl of Douglas, in 1418 (Nos. 242, 243). The device is thrice repeated on the field of the seal, and may perhaps be intended to stand for *Archibald Douglas* (Plate XII. fig. 8); while, on the counter-seal, an angel is represented supporting an apparently similar monogram. The counter-seal of Sir Patrick Ogilvie, "Sheriff of Angus and Lord Justiciar" (1428), affords the earliest example of *Initials* in the *Catalogue*, the device being a wheat-sheaf between the letters "G. A." (Governor of Angus?)—No. 650. Several other instances occur on the earlier seals of the sixteenth century.—(See Nos. 225, 135, and 166.) A scroll bearing the initials "I. H. D. F." appears on the seal of James Hamilton of Finnart, commonly called "The Bastard of Arran" (1532); while on that of Patrick Lord Ruthven (1560), the letters "P. L. R." are placed at the sides and top of the escutcheon (Nos. 403 and 712; also Plate XI. fig. 5).

[1] Laing's *Catalogue*, Nos. 437, 162, 617, and 387.

where the scroll is placed under the achievement.[1] The practice of placing the motto within a *garter* or circle, instead of on a scroll, in order to imitate the arms of knights, is one of many modern heraldic irregularities, and is only exceeded in absurdity by the custom, now sometimes followed, of putting the crest *within* an escutcheon!

Probably the most ancient heraldic mottos are War-cries, called in Scotland SLUGHORNES, Slogans, or Ensenzies, to which no one under the rank of a banneret was, of old, considered to be entitled. In Scotland, they have generally been confined to Chiefs of Clans and military leaders with numerous retainers.

> "When the streets of high Dunedin
> Saw lances gleam, and falchions redden,
> And heard the *slogan's* deadly yell—
> Then the Chief of Branksome fell."[2]

> "The Leader, rolling to the Tweed,
> Resounds the *ensenzie:*
> They roused the deer from Caddenhead,
> To distant Torwoodlee."[3]

Besides being used in battle, slogans were proclaimed in private combats by the attendant heralds, when the cry of the successful competitor was also loudly repeated by the spectators. The "Cri" of the Kings of France was "Montjoye St. Dennis," signifying, according to Menestrier, the banner of St. Dennis. In a skirmish

[1] Laing's *Catalogue*, Nos. 108 and 197.

[2] *Lay of the Last Minstrel*, i. 7.

[3] "Thomas the Rhymer" (part third), *Border Minstrelsy*, iii. 220. See also the ballads of "Kinmont Willie" (i. 206), and the "Raid of Reidswire" (i. 168).

near Calais, in the year 1349, Edward III. of England appears to have had for his war-cry, "Ha! St. Edward! Ha! St. George!" while the Kings of Scotland usually shouted "St. Andrew!" The Dukes of Normandy rallied their followers by exclaiming, "Dieu aye" (Dieu ayde); and the ancient cry of the Montmorencies was, "Dieu ayde au premier Chrétien"—the Montmorencies being styled the first Christian Barons.[1] The savage war-cry used by Amedius, Count of Savoy, was, "Frappez, Entrez, Rompez Tout" (briefly represented by the initial letters F. E. R. T.);[2] and Mr. Montagu mentions the still more truculent exhortation attributed to the Marshal Luxemburg, so recently as the year 1672: "Allez, mes enfans, pillez, volez, tuez, violez; s'il y a quelque chose de plus abominable, ne manquez pas de la faire."[3] One of the most uncharitable of our Scottish mottos is that of Lord Cranstoun, which kindly says, "Thou shalt want ere I want"—a supposed reference to the ancient forays of the Borders—which is certainly in strange contrast to the legend of Craufurd of Cartsburn "Quod tibi hoc alteri." An intermediate and strictly equitable sentiment is expressed in "Suum cuique," the motto of the Grants of Monymusk, which is also borne (somewhat questionably, in the opinion of unsuccessful litigants) by the Faculty of Scottish Advocates![4]

[1] We have an early instance of the war-cry in the Book of Judges, when the Israelites, fighting against the Midianites, cried, "The sword of the Lord and of Gideon!" and also the countersign or watchword, "Shibboleth."

[2] Others interpret the letters thus:—"Fortitudo ejus Rhodum tenuit."

[3] *Study of Heraldry*, p. 55.

[4] Lyon Register, vol. v. p. 81. (1856).

Many of the Scottish slogans were taken from the names of military leaders, and others from the place of rendezvouz. Thus, the cry of the old Earls of Douglas was, "A Douglas! A Douglas!" and of the Homes, "A Home! A Home!"[1] while the Mackenzies, the Grants, the Buchanans, and the Scotts respectively shouted, "Tullich-ard," "Craig-ellachie," "Clare Innis," and "Bellendaine,"[2] the gathering-place, in most of the latter instances, being proclaimed throughout the Clan by means of the Fiery Cross :—

> "Fast as the fated symbol flies,
> In arms the huts and hamlets rise ;
> From winding glen, from upland brown,
> They poured each hardy tenant down.
> Nor slacked the messenger his pace ;
> He showed the sign, he named the place,
> And, pressing forward like the wind,
> Left clamour and surprise behind."[3]

In some instances, as in the case of the national cries of England, Scotland, and France, already referred to, the slogan was taken from the name of the patron saint.

[1] "Nor list I say what hundreds more,
From the rich Merse and Lammermoor,
And Tweed's fair borders, to the war,
Beneath the crest of old Dunbar,
And Hepburn's mingled banners come,
Down the steep mountain glittering far,
And shouting still, 'A Home! A Home!'"
Lay of the Last Minstrel, v. 4.

In 1335, the English, led by Thomas of Rosslyne and William Moubray, assaulted Aberdeen. The former was mortally wounded in the onset ; and, as his followers were pressing forward, shouting *Rosslyne! Rosslyne!* "Cry Moubray," said the expiring chieftain ; "Rosslyne is gone!"—*Minstrelsy of the Scottish Border*, i. 176.

[2] *Tullich-ard* is a hill in Kintail, near the ruined Castle of Ellandonan ; *Craig-ellachie*, a wooded rock near Aviemore, in Strathspey ; *Clare Innis*, an island in Loch Lomond ; and *Bellendean*, a place near the head of Borthwick Water, in Roxburghshire.

[3] *Lady of the Lake*, iii. 14.

Accordingly, "St. Maurice" was the cry of the Dukes of Anjou, while that of the Scottish family of Seton was "St. Bennet and Set on," the last two words being, of course, an allusion to the name.[1] Mottos referring to the surname of the bearer are by no means common in Scotland, but they are frequently to be met with among our English neighbours. Thus, Cavendish "Cavendo tutus;" Pierrepont "Pie repone te;" Coleridge—"Time Deum, Cole Regem;" Vernon—"Ver non semper viret;" and Curzon "Let Curzon holde what Curzon helde." In a recent volume of the Lyon Register (1846), we find a curious example of *two* canting mottos, in the achievement of Mr. Hope Vere of Craigiehall and Blackwood, viz., "At *Spes* non fracta," and "*Vero* nihil verius." Like the war-cries, the mottos of Scottish families are frequently very laconic, being in several instances confined to a single word. Thus, the motto of Scott is "Amo;" of Bruce, "Fuimus;" of Dundas, "Essayez;" of Douglas, "Forward;" and of Home of Wedderburn, "Remember:" while that of the Hays is "Spare nought," and of the Leslies, "Grip fast." Occasionally, however, they are very lengthy and somewhat prosaic. Thus, "Altius ibunt qui ad summa nituntur" is the motto carried by the surname of Fordyce, and also by a branch of the family of Forbes; while "A *wight man* never

[1] See Scott's *Abbot*, i. 259, and *Mary Queen of Scots*, a Drama, Act iv. Scene 4. Edinburgh: 1825.

"Now, — Esperance! — Percy! — and set on!"—(1 *Henry* IV., Act iv. Scene 2.) "Esperance en Dieu" is the motto of the Percys.

In the year 1495 (10 Henry VII.), an Act was passed forbidding such war-cries as tended to promote discord among the English nobility, who were enjoined thenceforth to call only upon St. George and the Sovereign.

wants a weapon" is that pertaining to the Wightmans. "Touch not the cat *but* a glove" (*i.e.*, without, or but with a glove) is the well-known motto of the Mackintoshes, and bears reference to their crest—a cat "salient" —which indicates their descent from the Clan-Chattan.[1] Again, "Furth fortune and fill the fetters" is the motto of the Duke of Atholl and various branches of the house of Murray, which the author of *A Journey through Scotland*, published in 1732, "defies all the Heralds of Europe to explain!" Long mottos are not uncommon in England, and some of them afford admirable examples of the poet's *sesquipedalia verba.* Thus, the *injunction* of the Lamberts is "Nec mireris homines mirabiliores!" while the Freelings embody their sentiments in three words— "Nunquam nisi honorificentissime"—the last of which, it will be observed, embraces no fewer than *eighteen* letters! As on this side of the Tweed, however, some of the longest English mottos are both quaint and mysterious, as those of the family of Dakyns of Derbyshire, and the Martins of the county of Dorset—the first being "Stryke, Dakyns; the devil's in the hempe;" and the second, "He who looks at Martin's ape, Martin's ape shall look at him."

While several Scottish mottos refer to bearings in the escutcheon, a very large number are in allusion to the crest. As an example of the former class, we may mention the motto of Baillie of Lamington, "Quid

[1] In like manner, the motto of the Lindsays of Kirkforthar is "Live *but* dread"—doubtless somewhat Delphic in its character, but certainly intended to enjoin the fulfilment of that life without alarm, which is the necessary accompaniment of a "*mens conscia recti.*"

clarius astris?"—nine *stars* being carried in the shield.[1] In like manner, the motto of the Cuninghams, Earls of Glencairn, "Over fork over," bore reference to the *shake-fork* in the escutcheon, which, according to Mackenzie, has by some been incorrectly regarded as an *Episcopal Pall*, to commemorate the fact of the first of the family having been concerned in the murder of Thomas à Becket! Reference to the crest is, however, much more frequent. Thus, while the same crest—a pelican "in her piety"[2]—is carried by the Earls of Galloway and Moray, the motto of the former is "Virescit vulnere virtus,"[3] and of the latter, "Salus per Christum." Lord Gray's motto, in reference to his crest, is "Anchor, fast anchor;" which might have been adopted, with great propriety, by the brave Sir Thomas Hardy, in commemoration of Nelson's well-known words. "Do or die" is the chivalric motto of Douglas of Cavers, the crest being a dexter hand

[1] These stars have sometimes been erroneously blazoned mullets, or spur-rowels. According to Sir George Mackenzie, the Baillies anciently carried only *six* stars, "but afterwards, one of the heads of the family being in France, killed a wild boar; and to perpetuate this action to posterity, he added other three stars, which in all make up *nine*, to represent the constellation of *Ursa Major*, and to make his achievement more adequate, took for crest a boar's head, couped, and, for supporters, two boars, proper."—Nisbet's *Heraldry*, i. 247.

[2] A pelican in her nest feeding her young with her blood is strikingly said to be "in her piety," and is thus frequently represented as a symbol on monumental brasses. The figure occurs on the brass of William Prestwick, Dean of Hastings, in Warbleton Church, Sussex, with the explanatory motto, "Sic Xpus dilexit nos."—(See p. 11, *supra*.)

[3] The same motto is also carried by the Burnets of Barns or Burnetland, by whom it appears Burnet of Leys was pursued, before Sir David Lindsay, to change his motto: whereupon the latter, in allusion to the occasion, assumed as his legend, "Alterius non sit qui potest esse suus."—Mackenzie's *Science of Heraldry*, chap. xxxii. (See also p. 118, *note* 1, *supra*.)

holding a broken lance in bend: while the more peaceful legend of the Gilmours of Craigmillar is "Nil penna, sed usus," to show, according to Nisbet, that "their rise was from being writers and clerks."

By far the most numerous class of mottos are those which are expressive of a sentiment, hope, or resolution, of which several examples have already been incidentally given. As additional instances, we may mention the following:—"Denique cœlum," the motto of the Melvilles; "Dominus providebit," of the Boyles: "I hope to speed," Cathcart of Carbiston: "Tyde what may," Haig of Bemerside; "Will God I shall," Menzies of that Ilk:[1] "Si je puis," Colquhoun of Luss; and "Ready aye ready," Scott of Thirlstane. Some mottos are in such special favour that they are used by a large number of different families. Thus, "Dum spiro, spero" is carried by the Dillons in Ireland, by a branch of the Hunters in Scotland, and by upwards of twenty other surnames in various parts of the United Kingdom. In like manner, the national enthusiasm of an endless number of true Britons finds vent in the words "Pro patria," which are sometimes qualified by suitable additions.

The Badge, or Cognizance, is a mark of distinction somewhat similar to the crest, with which it has been frequently confounded, and among others by the bard of Avon, who puts the following words into the mouth of the Earl of Warwick:-

[1] Over the door of the old church of Weem, in Perthshire, this motto is thus rendered:—"Vil · God · I · Sal," with the date, 1600.

"Now by my father's badge, old Nevil's *crest*,
The rampant bear chained to the ragged staff."[1]

The badge was never placed on a wreath, nor worn on the helmet, but was often, and is still occasionally, embroidered on the sleeves of servants and retainers. Sir George Mackenzie, however, asserts that "the old and proper term used in Scotland for a crest was a badge; because our noblemen in riding Parliaments and at other solemnities, do bear their crest wrought out in a plate of gold or silver upon their lacqueys' coats, which are of velvet."[2] Nisbet seems to adopt the same view. "Crests," he says, "were anciently called by us and the English (?) badges, and cognizances by the French and Italians:"[3] and in the same chapter, he substantially repeats Sir George's statement. It certainly does not appear to follow that the old and proper term for a crest was a badge, because Scottish noblemen had their crests embroidered on the coats of their followers at processions and other solemnities. But the truth seems to be that while in England the crest and the badge were usually *different* figures, in Scotland they were almost always the same. On the other side of the Tweed, according to Mr. Lower, "the coat-armour of a great family was of too sacred a character to be used as the personal ornament or distinction of their retainers, the private herald only

[1] 1 *Hen.* VI. Act v. Sc. 1. The bear and ragged staff were not the badge of Neville, but of the Beauchamps, who preceded Warwick in the Earldom.

[2] *Science of Heraldry*, chap. xxix. The badges worn by the firemen and watermen of London remind us of this ancient fashion, to which also the crest on the buttons of livery servants is somewhat analogous.

[3] *System of Heraldry*, vol. ii. part iv. chap. v.

excepted."[1] The following lines occur in the "Hermit of Warkworth" with reference to the badge of the Percys :—

> "The minstrels of thy noble house,
> All clad in robes of blue,
> With *silver crescents* on their arms,
> Attend in order due."

The crest, however, is not the only figure with which the badge has been confounded. Nisbet is evidently at fault (vol. ii. part iv. chap. vi.) in considering the latter to be synonymous with the DEVICE—a term which is, no doubt, very vaguely used. Meyrick pronounces a device to be "a motto, emblem, or other mark by which the nobility and gentry were distinguished at tournaments;" and it differed from a badge "only inasmuch as it was an arbitrary and often temporary distinction, whereas the badge was frequently borne successively by many of the same House."[2] In short, the device is almost identical with the impress, to which we have already referred, being a "painted metaphor,"[3] intended to represent some temporary sentiment of its possessor (to whom it is merely personal), while the badge was "a sort of subsidiary arms, used to commemorate family alliances, or some territorial rights or pretensions."[4] Occasionally, the household badge was a simple and conspicuous figure selected from the family

[1] *Curiosities of Heraldry*, p. 145, *note* 2.

[2] *Glossary of Heraldry*, p. 113.

[3] This definition is erroneously attributed by several writers to Dallaway, instead of Sir George Mackenzie.—See *Science of Heraldry*, chap. xxxiv.

[4] Montagu's *Study of Heraldry*, p. 48.

arms, but more frequently it had no connexion with them. Generally, however, it bore obvious allusion either to the owner's name, or to one of his principal estates or offices.[1] As well explained by Mr. Planché, the object of both badge and motto was *publicity*, while the device or painted resemblance (styled the "body"), with its accompanying legend (termed the "soul or spirit"), was assumed for the purpose of *mystification*, "or at least of covertly alluding to the immediate motive or sentiments of the bearer."[2]

As good examples of devices, we may mention the fixed star of the Montmorencies with the word "απλανος" (without change or shadow of turning), which appears on the seal of Hervé de Montmorency as early as the year 1186; the human heart with the inscription, "Dieu et ma fiancée," used by Lord Latimer in the reign of Henry VIII.; and the stalk of liquorice with the legend, "Dulce meum terra tegit," adopted by Mary, Queen of Scotland, after the death of her first husband, Francis II. of France. Devices were usually placed either at the sides of the shield or below the achievement; and occasionally the double arrangement was followed by the same person. Thus, Henry VII. of England placed a rose "parted per pale *gules* and *argent*"[3] below his escutcheon,

[1] At the battle of Barnet, in 1471, "a strange misfortune happened to the Earl of Oxford (John Vere) and his men, for they having a star with streams (a mullet) on their liveries, as King Edward's men had the sun; and the Earl of Warwick's men, by reason of the mist, not well discerning the badges so like, shot at the Earl of Oxford's men that were on their part."—Sir Rd. Baker, *Chronicle*, p. 211.

[2] *Pursuivant of Arms*, p. 180.

[3] The red and white roses are sometimes borne *quarterly*, gules and

in allusion to the union of the Houses of Lancaster and York, by his marriage to the heiress of the latter; and also a portcullis with the legend, 'Altera securitas," at the side of the shield, to show his maternal descent from the family of Beaufort, and to indicate that as the portcullis, the device of the Duke of Somerset (the eldest son of John of Gaunt by his third wife), is an additional security to the gates or porch of a fortress, so his descent through his mother strengthened his title to the Crown.[1] Both the parti-coloured rose and the portcullis of the House of Tudor are frequently spoken of as badges, but we are inclined to think that these, as well as many of the other cognizances adopted by the Kings and Queens of England, would, in one sense at least, be more accurately described as devices, inasmuch as they were not used during successive generations.[2] In the case of several English families (including the Harringtons, the Heneages, the Staffords, the Lacys, and the Dacres), the badge consisted of a fret or knot; and the well-known badge of the Hungerfords was made up of a garb (derived from the Peverels) and a sickle, united by a golden cord. A *mulberry* tree was embroidered as a badge on the housings of Thomas Mowbray, Duke of Norfolk, in allusion to his surname; and, in like manner, a

argent, but generally *one within the other*.

[1] The portcullis has been used as a device by the Kings of Scotland since the marriage of James I. to Jane Beaufort, to indicate their maternal descent from the Royal family of England.—(Nisbet's *Heraldry*, vol. ii. part iv. p. 25.) See also seal of Charles I. (1626), Laing's *Catalogue*, No. 72.

[2] For an interesting notice of the Royal badges of England, see Montagu's *Study of Heraldry*, p. 59.

Daisy was assumed by Margaret of Anjou, Queen of Henry VI.

> "The daise a floure white and rede
> In French called la belle Margarete."[1]

Mr. Planché gives an interesting list of badges borne by some of the principal nobility in the reign of Edward IV., from a contemporary MS. in the English College of Arms, in which only two Scottish surnames make their appearance, to wit, the Earl of Douglas and Sir Thomas Montgomery, who bear, as badges, a human heart and a fleur-de-lis respectively, being, in both instances, portions of the family arms. It is somewhat strange that the buckle of the Pelhams does not occupy a place in the list, as it is generally supposed to have been assumed by Sir John de Pelham, in commemoration of his concern in the capture of the King of France at the battle of Poictiers.[2]

According to Petra Sancta, the oldest device on record is the thistle and relative motto ("Nemo me impune lacesset"), borne in the royal achievement of Scotland, the first assumption of which (in common with other

[1] Chaucer.

[2] "Throughout the whole of that part of Eastern Sussex over which the Pelham influence extends, there is no 'household word' more familiar than the *Pelham buckle*." It occurs as an appendage to the family arms; on the ecclesiastical buildings of which they were founders or benefactors; on the ornaments of their various mansion-houses; on ancient seals; as the sign of an inn; on the chimney-backs of the farm-houses, on the mile-stones, on the turnpikes, and even on the backs of the sheep.—See Lower's *Curiosities of Heraldry*, p. 146. In like manner, the flying spur of the Johnstones is to be met with, under various circumstances, in different parts of Dumfriesshire—at one time surmounting the steeple of a parish church, and at another adorning the paper wrapper of the gingerbread for which the town of Moffat is so justly celebrated.

writers) he refers to King Achaius, on the occasion of his celebrated alliance with the Emperor Charlemagne! The Great Seals of the first four Jameses of Scotland have generally been incorrectly regarded as precisely similar, whereas certain distinctive marks—an annulet, a fleur-de-lis, and a trefoil—were added by James II., III., and IV., respectively;[1] and perhaps these figures may be regarded as something of the same character as the badges or devices associated with the armorial insignia of the English sovereigns. On the privy seal of James IV. (1506), we find a mullet above the shield, a mascle or lozenge at the dexter side of the crown, and a crescent behind the dexter supporter, which is charged with a saltire on the loins.[2] Again, on the Great Seal of Queen Mary, a crowned thistle is placed behind each of the supporters, and the shield surrounded by the collar of that Order; while on that of her son, James VI. (1583), a part of the caparisons of the monarch's charger are embroidered with the same figure.[3]

On the counter-seal of Walter Stewart, Earl of Atholl (1429), is a device resembling a stag "couchant," which, as Mr. Laing conjectures, may have been a family badge;[4] and we may mention that a somewhat similar figure was carried as a badge by Richard II. of England, who inherited it from his mother, "The Fair Maid of Kent," the daughter and ultimately sole heiress of Edmund Plantagenet. In alluding to certain devices, of which

[1] Laing's *Catalogue*, Nos. 45, 46, 50, and 51.

[2] *Ibid.* No. 53.

[3] *Ibid.* Nos. 59 and 67; also Plate XIII. fig. 4.

[4] *Ibid.* No. 795; also Plate XI. fig. 6.

the signification was not well known till explanatory legends were applied to them, Nisbet specifies "the cal-traps" (cheval-traps) of the Earls of Perth, the salamander of Dundas of that Ilk, and the thistle and rose in the royal achievement issuing out of the compartment, the well-known devices of Scotland and England, united in the person of King James VI.[1] It may certainly be questioned, however, whether the figures in the first two instances can with propriety be regarded either as badges or devices, inasmuch as they are connected with the compartment under the escutcheon, to which we shall afterwards refer. As already indicated, very few of the baronial families of Scotland appear to have adopted any special badges, in the English sense of the term; and when it was necessary to distinguish the persons of their servants or followers, the crest or a portion of the arms seems to have served the purpose—a practice still observed by the Duke of Atholl, the Earl of Mansfield, Mr. Trotter of Mortonhall, and a few other Scottish families. Among the Highlanders, however, another species of badge has, in recent times, constituted a mark of clanship, in the shape of a leaf or sprig of a particular tree or shrub (usually an evergreen), which is carried in the bonnet or other portion of the costume—the chief being entitled to wear two eagle's feathers in his bonnet, in addition to the badge. Thus, the badge of the Gordons is ivy, of the Campbells, myrtle, of the Buchanans, birch, of the Camerons, oak, of the Grahams, laurel, of the Murrays, juniper, of the Robertsons, fern

[1] *System of Heraldry*, vol. ii. part iv. p. 25.

(or bracken), of the Macdonalds, bell-heath, and of the Macgregors, pine.

> "She told me, and turned my chilled heart to a stone,
> The glory and name of Macgregor was gone :
> That the *pine* which for ages had shed a bright halo,
> Afar on the mountains of Highland Glen-falo,
> Should wither and fall ere the turn of yon moon,
> Smit through by the canker of hated Colquhoun ;
> That a feast on Macgregors each day should be common,
> For years, to the eagles of Lennox and Lomond." [1]

Occasionally, the symbol appears to have been changed, and Sir Walter Scott mentions that "the downfall of the Stuarts was supposed to be omened by their having chosen the oak (in lieu of the thistle ?) for their badge of distinction."[2]

SECTION III.—SUPPORTERS AND COMPARTMENTS.

Various opinions are entertained by heraldic writers respecting the origin of SUPPORTERS, which in Scotland were formerly termed *Bearers*.[3] While some consider that at first they were merely a device of the engraver to fill the void spaces between the triangular shield and the circular border of the seal, others (including Menestrier and Nisbet) trace their adoption to certain ceremonies performed at tournaments, where the knights, on hanging

[1] Hogg's *Queen's Wake*, "The Fate of Macgregor."

See also some curious lines on "The M'Gregouris Armes" in the *Black Book of Taymouth*, p. 173.

[2] Lockhart's *Life of Scott*, Letter to Lord Montagu, 24th May 1822.

[3] In a curious MS. in the possession of Lord Dalhousie, at Brechin Castle, the badges, mottos, and supporters of some of the Scottish nobility are given thus :—"The Earle of Mortoun's badge, an boar, under an holin tree, *Bearers* on every side, an wyld man saying, '*Lock sicker*.'"

up their shields, by way of challenge, placed their pages or armour-bearers, grotesquely dressed as wild men, lions, dragons, etc., to watch those who might touch the escutcheon ; and it is concluded that these figures, of which we have numerous examples in both English and Scottish heraldry, were afterwards adopted as armorial supporters. Sir George Mackenzie is of opinion that supporters took their rise from the solemnities attendant upon the creation of the nobility in the olden time, when the person about to be invested with any honour was led before the sovereign "between two of the quality," in remembrance of which occurrence his escutcheon was afterwards supported by any two creatures he might feel disposed to select. We are inclined to give a preference to the first of these conjectures, as indicated by Anstis, in his *Aspilogia*, in the following terms :—"As to supporters, they were (I take it) *the invention of the graver*, who, in cutting on seals shields of arms, which were in a triangular form and placed on a circle, finding a vacant place at each side and also at the top of the shield, thought it an ornament to fill up the spaces with vine branches, garbs, trees, flowers, plants, ears of corn, feathers, fretwork, lions, wyverns, or some other animals, according to their fancy."

When supporters are inanimate objects, the escutcheon is said to be *cotised*– a term derived from the French word *côté* (a side)—in contradistinction to supported. A curious example of inanimate supporters occurs on the English seal of William, Lord Botreaux (1426), where, on each side of a couché shield exhibiting a

griffin "segreant" and surmounted by a helmet and crest, a *buttress* is quaintly introduced, in evident allusion to the owner's name.[1] A somewhat similar arrangement appears on the Scottish seal of William Ruthven (1396), where a tree growing from a mount is placed on each side of the escutcheon.[2]

The French draw a distinction between supports and *tenans*, of which the former hold the upper portion of the shield, while the latter support it from below. Nisbet refers to the lozenge on the seal of Margaret, Duchess of Burgundy (1384) as being supported by *four* animals, her husband's two supporters (eagles) being placed on the two upper sides of the shield, and those of her father (two lions "sejant") on the lower sides.[3]

The *position* of supporters is very much varied. In the case of couché shields, they are frequently so placed as to appear to be supporting the helmet and crest; but when the escutcheon is carried erect, they are almost always disposed by the sides of it, in accordance with our present practice. When only one is introduced, it is sometimes placed on the dexter, and sometimes on the sinister side of the shield. Sometimes, again, the

[1] *Archæological Journal*, x. 335.

In his notice of "Reptilia, or creeping things," Nisbet remarks that "the arms of Botreaux in England are *argent*, three toads erect, *sable*. Nicol Upton (he adds), an English writer about the year 1428, speaking of the Lord Botreaux's arms, says, 'Quæ quidem arma olim portaverunt reges Francorum;' but Menestrier, in his chapter on the rise and antiquity of the fleur-de-lis of France, has sufficiently refuted that story of the toads."—*System of Heraldry*, i. 335. (See p. 190, *note* 2, *supra*.)

[2] Plate xi. fig. 7; Laing's *Catalogue*, No. 708; see also Nos. 236, 238, and 294.

[3] *System of Heraldry*, vol. ii. part iv. p. 31. See also another curious example engraved by Mr. Lower at p. 144 of his *Curiosities of Heraldry*.

single supporter is disposed behind the escutcheon, which is made to rest against it; and in a few rare instances, it is placed at the bottom of the achievement, being surmounted by the shield. The same figures are carried by several families, "without any ground of offence, or concluding them to be of one descent or kin;"[1] and this is especially the practice in the case of *savages*, who appear to be very popular in Scottish Heraldry.

> "As two wild men, supporters of a shield,
> Painted, who stare at open space, nor glance
> The one at other, parted by the shield."[2]

Savages occur, either singly or in pairs, in the achievements of the Dukes of Atholl, (Douglas), and Roxburgh, and in those of the noble families of Sutherland, Morton, Perth, Elgin, Strathallan, Elphinstone, Torphichen, Kinnaird, and Herries;[3] besides being carried by many old barons, including the Irvines of Drum, the Fotheringhames of Powrie, the Nisbets of Dean, the Bruces of Airth, and the Murrays of Broughton. They are almost invariably wreathed with laurel, and frequently carry batons, arrows, or branches in one of their hands.[4]

Sometimes the supporters are taken from the figures within the escutcheon, as in the case of the Earl of Home, Lord Gray, and Dundas of that Ilk, who all bear

[1] *System of Heraldry*, vol. ii. iv. 33.

[2] Tennyson's *Idylls*, Enid.

[3] See Plate II.

[4] Nisbet conjectures that the frequent use of savages as supporters was either in imitation of John, Seneschal of Kyle (afterwards Robert III.), or in consequence of the tournament held by James IV. "in defence of the savage knight," where many of the nobility and gentry appeared with their servants in the dress of savages, which became the supporters of several families.—*System of Heraldry*, vol. ii. part iv. pp. 28 and 33.

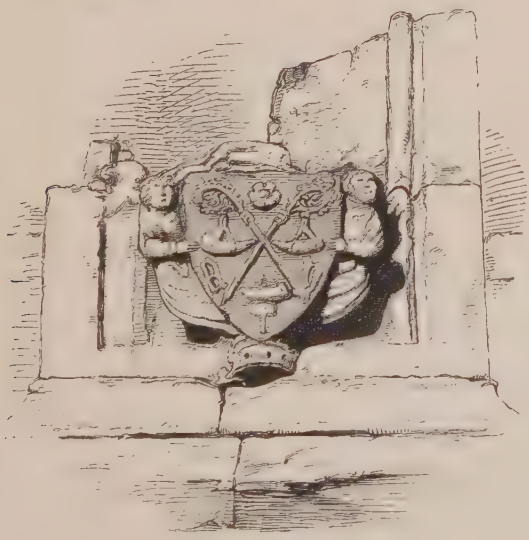
lions in their shields; while the supporters of Lord Forbes are two bears, three "couped" heads of "Master Bruin" being the charges in his escutcheon. Besides savages and lions,[1] stags, horses, hounds, antelopes, unicorns, and griffins are favourite supporters. The eagle, the falcon, and the swan are also in considerable request, while men in armour and female figures (both literal and allegorical) are very frequent. In a few instances, the supporters are allusive to the bearer's surname, as in the case of Cuningham, Earl of Glencairn, and Lord Oliphant, who respectively carried *conies* and *elephants*.

According to Mackenzie and other authorities, supporters are not hereditary, but may be altered at pleasure; "if, however," says Sir George, "cadets keep their chiefs' supporters, they use to adject some difference." Thus, the Earl of Kellie placed a *crescent* on the breasts of the griffins which he adopted as supporters from the achievement of his chief, the Earl of Mar. As an example of changed supporters, we may mention the case of the Earls of Eglinton, who have carried two dragons (instead of angels in Dalmatic habits)[2] "ever since they came from the House of Seton" an illustration of the frequent practice of supporters being taken from the achievement of a family connexion. In England, the

[1] Plate XI. fig. 8. Seal of William (first Lord ?) Seton, 1384.—(Laing's *Catalogue*, No. 738). Lions also occur as supporters on the seal of George Lord Seton, *c.* 1440.—(*Catalogue*, No. 739.) The supporters ultimately adopted by the family were two mertrixes or foxes.

[2] Two such angels were in later times the supporters of the national arms of France; and it is somewhat strange that, as in the case of the charges in their escutcheon (three fleurs-de-lis), the supporters of the Montgomeries should exhibit another French analogy.

supporters of the Royal arms have frequently been changed. Edward IV. changed his at least three times; and till the reign of James I., when the lion and the unicorn were permanently adopted, the supporters do not appear to have been regarded as hereditary. "In marshalled arms," says Nisbet, "the coat which is first on the right side is supported by the supporter properly belonging to those arms, and those on the left by the supporter belonging to them; but if they have none, then, for beauty's sake, the supporter on the right is doubled on the left. In subjects' arms, also, impaled or quartered, the supporters uphold the arms of the family to whom they belong."[1]



On the corbels of Gothic architecture, shields of arms are frequently supported by *Angels*, which, however,

[1] *System of Heraldry*, vol. ii. part iv. p. 36.

cannot generally be regarded as heraldic appendages — being merely supposed to indicate that the owners have contributed to the erection of the fabric. Examples of this practice will be found on various ecclesiastical edifices in Scotland, and among others, at Melrose Abbey, St. Giles', Edinburgh, and the church of Seton, in East Lothian. An interesting instance of an angel supporting a shield occurs on the beautiful seal of Mary of Gueldres, Queen of James II. (1459);[1] and the Privy Seal of David II., a hundred years earlier, exhibits a pretty design of an escutcheon charged with the ensigns of Scotland, and borne by two arms issuing from clouds above, indicative of Divine support.[2] According to the French heralds, only sovereign princes can use angels as heraldic supporters; but in Scotland they have long been so carried by several ancient Houses, including the noble families of Lothian, Borthwick, and Saltoun.

Towards the end of the thirteenth and the beginning of the fourteenth century, we have numerous instances of Scottish seals exhibiting shields placed between two animals—usually resembling *Lizards*—the promiscuous use of which, apart from other reasons, appears to furnish a strong argument against the propriety of regarding

[1] Plate XI. fig. 9; Laing's *Catalogue*, No. 48. See also Nos. 206, 691, and 692.

Mrs. Stowe mentions a curious monument of the Bedford family at Chenies, in Buckinghamshire, on which *Cherubim* are represented holding aloft the armorial bearings of that noble House, almost as if they would give them a lift into heaven with the family.—*Godsacre*, p. 182, *note*.

[2] Plate XI. fig. 10; Laing's *Catalogue*, No. 29. At each side of the King's seated figure, on the counter seal of Robert II. (1386), the arms of Scotland are supported from behind by a *skeleton*, within an embattled buttress.—*Catalogue*, No. 34.

them as heraldic supporters. No fewer than thirteen instances of these lizards occur in Mr. Laing's *Catalogue*, the earliest being on the seal of Robert Bruce, Earl of Carrick (1285), and the latest on that of Sir John Felton, Lord of Ochiltree (1333).[1] In a few cases, besides the two animals at the sides, a third animal of the same or a different kind is placed *above* the escutcheon, as on the seal of Reginald Crawford (1292), where the shield is surmounted by a fox and placed between two dogs.[2] Of these early seals, probably that of William Stirling (1292), on which the shield is placed between two lions rampant, exhibits the nearest approach to the regular heraldic supporters of a later period.[3]

On several Scottish seals of the same era, the shield is placed *on the breast of a displayed eagle*, as on those of Alexander Abernethy and Alexander Cumin of Buchan (1292), Alexander Stewart, Earl of Menteith (1296), and Sir David Lindsay, Lord of Crawford (1345).[4] English Heraldry supplies several similar examples, of which we

[1] Plate XII. fig. 1; Laing's *Catalogue*, Nos. 140 and 324. See also Nos. 112, 123, 149, 153, 347, 700, 375, 25, 446, 601, and 611, of which the first six are attached to documents dated 1292.

[2] Plate XII. fig. 2; Laing's *Catalogue*, No. 210. See also Nos. 761, 149, 375, and 601, of which the first is the seal of John of Strathbogie, Earl of Atholl (1292), exhibiting two griffins "segreant" at the sides, with a lion both above and below the shield.

[3] Plate XII. fig. 3; Laing's *Catalogue*, No. 755. See also p. 14 of Mr. Fraser's *Stirlings of Keir and their Family Papers*.

[4] Laing's *Catalogue*, Nos. 80, 223, 785 (Plate XII. fig. 4), and 509. See also the later seals of Walter Leslie (1367)—already referred to as one of the earliest Scottish examples of quartering (Plate VIII. fig. 3)— of Maurice, Lord Drummond (1465), and of John Butler (1470).— *Catalogue*, Nos. 496, 278, and 147.

The original arms of the Lindsays were the same as those of the Norman family De Limesay, viz., gules, an eagle displayed, or. Towards the

may mention the armorial insignia of Richard, Earl of Cromwell, brother of Henry III., and of the ancient family of Latham, in the fourteenth century. A curious instance of a shield placed on the breast of a *Hawk* is noticed by Hone in his *Table Book*, viz., the arms of the Lord of the Manor of Stoke-Lyne, in the county of Oxford. It appears that when Charles I. held his parliament at Oxford, the offer of knighthood was gratefully declined by the then Lord of Stoke-Lyne, who merely requested, and obtained, the royal permission to place the arms of his family upon the breast of a hawk, which has ever since been employed in the capacity of supporter. Sometimes the eagle's breast is charged with more than one shield, as in the case of the seals of Margaret Stewart, Countess of Angus (1366), and Euphemia Leslie, Countess of Ross (1394), on both of which *three* escutcheons make their appearance.[1]

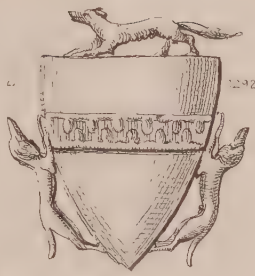
The royal arms of Prussia are supported by an eagle with *two heads*, and the same arrangement, as already stated, is adopted in marshalling the present bearings of the City of Perth.

The well-known seal of Muriel of Stratherne (1284) furnishes a curious example of something approaching to a single heraldic supporter. As already stated, it is strangely misrepresented and described by Sir George

close of the thirteenth century they assumed, in lieu of the eagle, a fess checquy, argent and azure, probably in consequence of "close alliance, by kindred and interest, with the High Steward," the eagle being for a time retained as the tenant or supporter of the escutcheon.—See *Lives of the Lindsays*, i. 55; also Plate IV.

[1] Laing's *Catalogue*, Nos. 791 and 499. See also Plate XII. fig. 5, which represents an *earlier* impression of the seal of the Countess of Ross, from a charter dated 1381.

1



2 1292

3 1432

4 1336

5 1381

6 1404

7 1404

9 1446

6 1478

W. & A. K. Johnston, Edinburgh

Mackenzie as exhibiting "a shield with one supporter, viz., a falcon *standing upon the neck of a duck*, which with the neck lies under the escutcheon, and both shield and supporter are within a lozenge"![1] In point of fact, however, the lozenge is a pure invention, and the shield (bearing the two chevrons of Stratherne) is placed above a dexter arm "vested," issuing from the sinister side of the legend, and holding a falcon by the jesses.[2]

On several of our more ancient seals only one supporter is represented, and probably the earliest example of this arrangement occurs on the curious seal of William, first Earl of Douglas (*c.* 1356), already referred to, where the shield is supported from behind by a lion "sejant," *with his head in the helmet*, which is surmounted by the crest.[3] Very similar designs appear on the seals of Andrew Roxburgh (1367), Nicolas Douglas, brother of Sir James Douglas, Lord of Dalkeith (1392), and Adam Forrester of Corstorphine (1400)—the escutcheon, in the two latter cases, being supported by the fore-paws of the royal beast.[4] On the seals of Margaret Stewart, Countess of Angus and Mar (1378), and Isabel Douglas, Countess of Mar (1404), a female figure is represented holding two upright shields (one in each hand); and, in the former case, an eagle is placed on the top of each

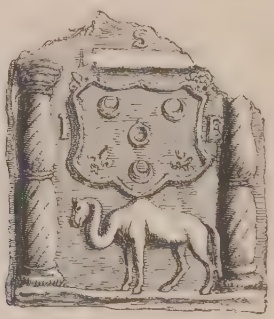
[1] *Science of Heraldry*, chap. xxxi.; also Plate XIII. fig. 8.

[2] Laing's *Catalogue*, No. 764; also Plate XIII. fig. 7. A falconer on horseback, holding a falcon in the same manner, appears on the early seal of "William, son of John" (*c.* 1180).—*Catalogue*, No. 844.

[3] Plate X. fig. 2; Laing's *Catalogue*, No. 237. A similar Flemish example (1359) is mentioned by Nisbet.—*System of Heraldry*, vol. ii. part iv. p. 31.

[4] Laing's *Catalogue*, Nos. 705, 259, and 342 (Plate XII. fig. 6).

escutcheon, holding the guige in its beak.[1] On the seal of Archibald, fourth Earl of Douglas (*c.* 1418), the shield is held, along with a club, in the right hand of a savage *erect*, who bears a helmet in his left; while on that of William, eighth Earl (1446), a *kneeling* savage holds a club in his right hand, and supports a couché shield on his left arm.[2] The seal of Sir Thomas Erskine of Brechin (1541), exhibits a shield placed in front of a griffin, which forms one of Lord Mar's supporters; and on the still later seal of James Sandilands, Lord Torphichen (1603), an upright shield is accompanied by a single supporter, viz., a lion on the dexter side.[3] About the



same date (*c.* 1600), the armorial shield of Sir James Edmonstone of Duntreath is represented on a sculptured

[1] Laing's *Catalogue*, Nos. 792 and 241 (Plate VII. fig. 12, and Plate XII. fig. 7). See also No. 767, the seal of Euphemia Stratherne, Countess of Moray (1369), exhibiting three shields, of which two are couché, each being supported on the back of a lion, "sejant, gardant;" and No. 36, that of Euphemia, Countess of Moray, daughter of Hugh Earl of Ross, and Queen of Robert II. (1375), on which are two shields bearing Scotland and Ross respectively, each supported by a lion standing on his hind legs.

[2] Plate XII. figs. 8, 9; Laing's *Catalogue*, Nos. 242 and 247.

[3] *Ibid.* Nos. 316 and 718; also Plate XIII. fig. 1. Nisbet mentions that the royal arms of Scotland are

stone at Duntreath Castle, with its apex resting on the hump of a camel—the only example of such an arrangement that we have ever met with.[1]

The only other species of a single supporter to which we intend to allude is noticed by Mr. Lower as being peculiar to the fifteenth and sixteenth centuries, viz, where the arms are represented on a banner, the staff of which is supported by an animal either in a "rampant" or "sejant" posture. As an example, he refers to the armorial insignia of Sir Roger Fynes, Treasurer of the Household to Henry VI., which are thus represented over the great gate of Hurstmonceaux Castle, in Sussex, the supporter being an alaunt or wolf-dog.[2]

The seal of David Lindsay, Lord of Crawford (1345), already referred to as exhibiting the earliest Scottish example of a heraldic crest, also appears to furnish the earliest instance of regular supporters, viz., two lions.[3]

supported by only one unicorn, "sejant," at the outer entrance of Holyrood.—*System of Heraldry*, vol. ii. part iv. p. 30. The stone to which he refers is now to be seen in the Chapel.

[1] The present supporters of the Duntreath family are two rampant *lions;* but according to Workman's MS., quoted by Nisbet (i. 241), the supporters of Edmonstone of that Ilk, afterwards designed of Ednam, were two camels proper, and the crest a camel's head and neck. The lions appear as supporters on the seal of Sir William Edmonstone of Duntreath, Justice-General of Scotland (1470), the crest, however, being a *camel's* head issuing from a ducal coronet, and not a horse's head, as stated in Laing's *Catalogue*, No. 305.

[2] *Curiosities of Heraldry*, p. 142. Two modern examples of a somewhat similar arrangement occur at the head of the Meadow Walk, Edinburgh, where the pillars at the entrance are surmounted by two cleverly cut unicorns, of which the dexter holds a small banner bearing the national arms of Scotland, and the sinister another banner charged with the ensigns of the metropolis.

[3] We have already noticed another beautiful seal of the same David Lindsay—*Catalogue*, No. 509—on which the shield is placed on an eagle's breast.

The earliest example in Mr. Laing's *Catalogue* (No. 311) is the seal of Sir Thomas Erskine (1364), the supporters being two griffins. Nisbet refers to a seal of John, Seneschal of Kyle (afterwards Robert III.), appended to a charter of the same date, in favour of the Burgh of Glasgow. "The shield," he says, "was couché, and supported by two savages, as by the abstracts of the charter in the Scots College of Paris;"[1] and this is probably the seal noticed in Mr. Laing's *Catalogue* (No. 782), as appended to another deed, dated 1369. Fifteen other early examples of escutcheons with two regular supporters are furnished by the same Catalogue, the earliest being the seal of Thomas, thirteenth Earl of Mar (1368)—two demi lions, and the latest that of Sir William Cuningham of Kilmaurs (1398)—two lions "sejant, gardant, coué."[2] In ten of the other thirteen instances, the supporters consist of savages (whole or demi) and lions in various attitudes.[3] In two cases, they are animals "with the body and legs of a lion, and the head and face of a woman;" and in one instance, demi figures of aged men "vested."[4] In the earlier portion of the fifteenth century, two lions appear as supporters on the seal of William Chalmers (1404); two angels with expanded wings on that of Archibald Douglas, fourth Earl of Wigton (1423); and two savages on that of Archibald, fifth Earl of Douglas (1425).[5] On the still later seal of Colin Campbell, third Earl of Argyll

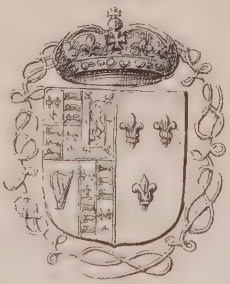
[1] *System of Heraldry*, vol. ii. part iv. p. 31.

[2] Laing's *Catalogue*, Nos. 566 and 1215.

[3] *Ibid.* Nos. 312, 257, 239, 294, 240, 351, 1241, 738, 787, and 602.

[4] *Ibid.* Nos. 511, 512, and 568.

[5] *Ibid.* Nos. 168, 244 and 245.



Countes

(1513), two small rampant lions, *on the top of the helmet*, support the crest – a boar's head and neck "couped."[1]

The earliest Scottish example of royal supporters is furnished by the fine Privy Seal of James I. (1429), on which the escutcheon is placed between two lions "rampant, coué, gardant," which also appear on the Privy Seal of James II. (1442), the sinister lion being there surmounted by a saltire on the haunches.[2] Mr. Laing mentions in his preface (p. xvi.) that the *unicorns* do not make their appearance before the reign of Queen Mary, on whose first Great Seal (*c.* 1550) they are represented as chained and gorged with crowns.[3] A remarkably fine example, however, of the unicorns occurs on a large tablet, in high relief (with the date 1505), on the westmost buttress of Melrose Abbey, of which a very accurate and detailed account is given by Dr. J. A. Smith in his "Notes on Melrose Abbey."[4]

[1] Laing's *Catalogue*, No. 155; also Plate XIII. fig. 2.

[2] *Ibid.* Nos. 43 and 47; also Plate XIII. fig. 3.

[3] *Ibid.* No. 59; also Plate XIII. fig. 4.

[4] *Proceedings of the Society of Antiquaries of Scotland*, ii. 171.

Another lapidarian example of the unicorns (temp. Jac. v.) is figured and described by Mr. J. C. Roger, in his "Notices of Sculptured Fragments formerly in the Episcopal Palace, Glasgow," at p. 317 of the same volume. Speaking of the unicorn, he says, "Whether, as has been supposed, the original type of this figure be the Indian rhinoceros, or if its origin be wholly fabulous, is not distinctly known. Two kinds of unicorn are to be met with on the sculptures and in the writings of the ancients, viz., the bull-unicorn, and the horse unicorn. Of the former, a well-preserved example occurs on the Nimroud Obelisk in the British Museum, and a more modern instance on the Forteviot sculpture at Freeland House. The Rev. J. Campbell, author of *Travels in South Africa*, mentions that the Hottentots brought him a head with 'a straight horn projecting three feet from the forehead, about ten inches above the tip

In this instance, the *disposition* of the supporters is somewhat unusual. Their left forelegs are extended up the sides of the escutcheon, while the right legs, with the knees meeting in the middle, support it below, the feet being bent back to the body. Above the heads and outside the horns of the unicorns, the letter "I" is represented on the dexter, and the ancient form of the figure "four" on the sinister side, indicative of James IV.; while across the base of the tablet, the date is boldly cut

in ornamental letters—"Anno Dni 1505." Perhaps the earliest authentic occurrence of the national supporter

of Scotland in connexion with the royal arms is on the gold coinage of James III. (1460-88), where a single uni-

of the nose.' This specimen, since deposited in the Museum of the London Missionary Society, Mr. Campbell informs us 'is considered by naturalists the same that is described in Job xxxix.' It is stated by Mr. Willement in his *Regal Heraldry* (p. 70), in reference to the insignia of Queen Jane Seymour, that her arms were supported on the sinister by the *unicorn*, a figure which, according to that author, had maintained its place in the achievement of the Dukes of *Somerset;* and again of the arms of this queen, in another example, that the animal occurs *argent, royally crowned*. The title of Somerset appears to have been held by the Beaufort family from about the year 1396 to 1471, when Edmund Beaufort, the

corn is represented, in a sitting posture, behind the escutcheon, to which it is attached by a chain and ring.[1]

The COMPARTMENT—a term peculiar to Scottish Heraldry—is a kind of carved panel, of no fixed form, placed below the escutcheon, bearing the supporters, and usually inscribed with a motto or the name and designation of the owner. It does not appear to be a very ancient heraldic appendage, and was probably found to be a convenient arrangement when shields were carried erect instead of couché, so as to supply a resting-place (or stand-point) for the supporters. In a few instances, the compartment appears on seals with couché shields, on which, however, the supporters are usually represented as resting *on the sides of the escutcheon*, and bearing up the helmet and crest, as already mentioned. Sir George Mackenzie conjectures that the compartment "represents the bearer's land and territories, though sometimes (he adds) it is bestowed in recompense of some honourable action."[2] Thus, the Earls of Douglas are said to have obtained the privilege of placing their supporters within a pale of wood wreathed, because the doughty Lord, in the reign of King Robert the Bruce, defeated the English in Jedburgh Forest, and "caused wreathe and impale,"

last Duke of that surname, was beheaded. The title of Duke of Somerset would appear afterwards, with some interruption, to have been conferred on Edward Seymour, who died in 1551. James I. of Scotland married Joan Beaufort, daughter of John Earl of Somerset; but whether the families of Beaufort and Seymour were in anywise connected, I am unable to say. If they were, it suggests a possible explanation of the occurrence of this figure in the royal insignia of Scotland."

[1] These coins were termed "unicorns" and "half-unicorns," according to their weight.—See Lindsay's *Coinage of Scotland*, pp. 135-137, and Plate 13, fig. 22-27.

[2] *Science of Heraldry*, chap. xxxi.

during the night, that part of the wood by which he conjectured they might make their escape. Such a fenced compartment appears on the seal of James Douglas, second Earl of Angus, "Dominus de Abernethie et Jedworth Forest" (1434),[1] on that of George Douglas, fourth Earl (1459), and also on those of several of his successors in the earldom (1511-1617).[2] A still earlier example, however, of a compartment "representing a park with trees, etc., enclosed by a wattled fence," occurs on the seal of Walter Stewart, Earl of Atholl (*c.* 1430), where the escutcheon is placed in the entrance to the park between two trees.[3] Nisbet refers to a seal of William, first Earl of Douglas (1377), exhibiting a single supporter (a lion) "sitting on a compartment like to a rising ground, with a tree growing out of it, and semé of hearts, mullets, and cross-crosslets," these being the charges of Douglas and Mar in the escutcheon.[4]

According to Sir George Mackenzie, these compartments were usually allowed only to sovereign princes; and he further informs us that, besides the Douglases, he knows of no other subject in Britain, except the Earl of Perth, whose arms stand upon a compartment. In the case of the Perth family, the compartment consists of a green hill or mount, semé of caltraps (or cheval-traps),[5] with

[1] Nisbet's *Heraldry*, vol. ii. part iv. p. 134.

[2] Laing's *Catalogue*, Nos. 250-255.

[3] *Ibid.* No. 794; also Plate IX. fig. 2.

[4] *System of Heraldry*, vol. ii. part iv. p. 134. This is perhaps the same seal as No. 238 in Mr. Laing's *Catalogue*.

[5] Plate XIV. fig. 1. The caltrap was an instrument thrown on the ground to injure the feet of horses, and consisted of four iron spikes, of which one always pointed upwards.

the relative motto, "Gang Warily," above the achievement. "Albeit of late," says Mackenzie, "compartments are become more common, and some families in Scotland have some creatures upon which their achievements stand, as the Laird of Dundas, whose achievement has for many hundreds of years stood upon a salamander in flames, proper, (a device of the Kings of France;) and Robertson of Struan has a monstrous man lying under the escutcheon chained, which was given him for his taking the murderer of James I."[1] Such figures, however, as Nisbet remarks, cannot properly be called compartments, having rather the character of devices; while, in the case of the Struan achievement, the chained man would be more accurately described as "an honourable supporter." Sir George Mackenzie engraves "the coat of Denham of ould," viz., a stag's head "caboshed," below a shield couché charged with three lozenges, or fusils, conjoined in bend.[2] In like manner, Nisbet represents the crest and motto of the Scotts of Thirlstane, "by way of compartment," below the escutcheon of Lord Napier, and a blazing star, with the legend, "Luceo boreale," under that of Captain Robert Seton, of the family of Meldrum;[3] while in the case of the illumination which accompanies the latest entry in the first volume of the Lyon Register (1804), relative to the arms of John Hepburn Belshes of Invermay, the trunk of an oak-tree

[1] *Science of Heraldry*, chap. xxxi. See Plate XIV. figs. 2, 3.

[2] Plate XIV. fig. 4. See also Laing's *Catalogue*, Nos. 479 and 490.

[3] *System of Heraldry*, vol. i. plate 3, fig. 9, and plate 15, fig. 5.

See also Plate XIV. fig. 5, in this volume.

sprouting forth anew is placed on a compartment under the shield, with the motto, "Revirescit."

A curious heraldic arrangement occurs on the seal of Dougal Campbell of Corvorane, representative of the Campbells of Craignish, appended to a charter dated 1528—an escutcheon, "gyronny of eight," being suspended from a lymphad or galley (frequently quartered with the gyrons), and surrounded by a legend in the "old Irish character."[1]

Two other instances of regular compartments are mentioned by Nisbet, viz., those carried by the Macfarlanes of that Ilk and the Ogilvies of Innerquharity. The former consists of a wavy representation of Loch Sloy, the gathering-place of the clan, which word is also inscribed on the compartment as their *cri de guerre* or slogan; while the latter is a "green hill or rising terrace," on which are placed two serpents, "nowed," spouting fire, and the motto, "Terrena pericula sperno."[2]

English Heraldry furnishes no examples of these special compartments; but they appear to have been occasionally used in the achievements of the sovereigns and a few of the more distinguished families of France.[3]

Instead of using supporters, the former practice in Scotland was for widows (and occasionally married women) to surround their shields with a knotted cord of their colours, called by the French a CORDELIERE, to show, according to Nisbet, that they have *corps delié*,

[1] *System of Heraldry*, vol. i. p. 33, and plate 6, fig. 4; also Plate XIV. fig. 6, in this volume.

[2] *Ibid.* vol. ii. part iv. p. 134, and vol. i. plate 8, fig. 12.

[3] *L'Art Héraldique*, par M. Baron.

that is, "a body free and untied"![1] The institution of the figure has been attributed to Anne of Bretagne, widow of Charles VIII. of France, "who, instead of the military belt or collar, bestowed a cordon on several ladies, admonishing them to live chastely and devoutly, always mindful of the cords and bonds of our Saviour Jesus Christ; and to engage them to a greater esteem thereof, she surrounded her escutcheon of arms with the like cordon."[2] According to others, it was first adopted in veneration of St. Francis, patron of the Cordeliers (or Grey Friars), and several prelates of the Order of St. Francis still surround their arms with the cordelière.[3] Accordingly, it is somewhat singular that the figure should be used by churchmen as well as ladies, to both of whom, as we have already stated, the privilege of bearing crests and mottos is denied. The cordelière appears to have been rarely used in England, where, however, it is still occasionally painted upon funeral achievements.

The Love Knot, or LACS D'AMOUR—a figure very similar to the cordelière—appears to have been the characteristic mark of unmarried gentlewomen; but it must be acknowledged that some writers on Heraldry, including Sir George Mackenzie, use the two terms without any apparent distinction. Prior to the adoption of these devices, the armorial coats of both sexes were frequently surrounded by garlands of leaves and flowers, called "Stemmata," of which many examples, according

[1] *System of Heraldry*, vol. ii. part iv. p. 130. See also p. 145.

[2] Ashmole's *Order of the Garter*, p. 126.

[3] Nisbet's *System of Heraldry*, vol. ii. part iv. pp. 60 and 130.

to Nisbet, are to be found on old paintings and in illuminated books of arms. He refers to an instance of this arrangement at Redhouse, in East Lothian, the bearings in the relative escutcheon being those of the surname of Laing.[1] Another example occurs on the sculptured tablet, exhibiting the arms of Mary of Lorraine (1560), which formerly occupied the front of her residence at the corner of Quality Wynd, Leith.[2]

Two instances of the cordelière are furnished by Mr. Laing's Catalogue. The one appears upon the seal of Margaret, Duchess of Chatelherault (1560), *in the lifetime of her husband*, "where a cordelière of four knots," issuing from behind the shield, surrounds its base; while the other is on the pretty signet of Henrietta Maria, *widow* of Charles I. (1651), whose escutcheon is surrounded by a "border of love knots."[3] A third example occurs in connexion with the lozenge exhibiting the arms of Anne, Duchess of Buccleuch, widow of the Duke of Monmouth, on one of the curious set of playing cards (1691) already referred to.[4] In like manner, in a recent volume of the Lyon Register,[5] the arms of Mrs. Mary Chisholm, *spouse* of James Gooden, Esquire, and "the only issue of the late Alexander Chisholm of Chisholm, in the shires of Inverness and Ross," consisting of a boar's head "couped," are illuminated on a fusil or lozenge, which is suspended from a sort of cordelière.

[1] *System of Heraldry*, vol. ii. part iv. p. 130.

[2] Robertson's *Antiquities of Leith*, p. 31, and plate i. See also Plate XIV. fig. 7, in this volume.

[3] Plate XIII. figs. 5, 6. Laing's *Catalogue*, Nos. 406 and 76.

[4] Plate XIV. fig. 8.

[5] Vol. iii. p. 54; 1827.

1

Earl of Perth

2

Dundas of that Ilk

3

Robertson of Strowan

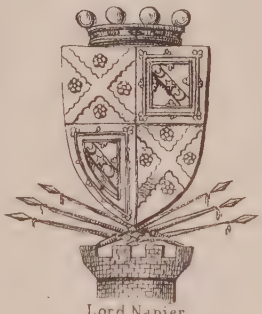
6

Campbell of Craignish

4

Denham of Old

5



Lord Napier

7

8

W. & A. K. Johnston, Edinburgh.

In addition to seals, Nisbet regards, as of considerable authority, *ancient manuscripts* and *illuminated books of blazons*, several of which he enumerates as the sources of much heraldic information relative to Scotland, including the collections of Workman, Pont, Esplin, and Sir James Balfour, to which he repeatedly refers. Besides these valuable manuscripts, many others are fortunately still in existence. Some of the most important are preserved in the Advocates' Library, the Lyon Office, and the British Museum; while others are to be found in various private collections, including those of Dr. Wellesley of New Inn Hall, Oxford, Mr. Scott Plummer of Middlestead, and Mr. Laing of the Signet Library. Several curious Scotch heraldic manuscripts were dispersed, a few years ago, at the sales of the collections belonging to Mr. Deuchar, Seal Engraver, Edinburgh, and Mr. W. B. Turnbull, Advocate, now of the English Bar; and it is very much to be regretted that such documents should find their way to any other destination than the Lyon Office.[1]

[1] When the sixth Duke of Norfolk, at the request of Evelyn (*Diary*, 29th August 1678), bestowed the Arundelian Library on the Royal Society, he stipulated that the books and documents relating to heraldry and genealogy should be deposited in the College of Arms.

Some very interesting light is thrown upon English heraldry by ancient *Rolls of Arms*. The earliest of these appears to be a copy made, in 1586, by Robert Glover, Somerset Herald, of a Roll of the bearings of the principal Barons and Knights of England, supposed to have been compiled about the year 1240—the original having unfortunately disappeared. The well-known Roll of Caerlaverock, published by Sir Harris Nicolas, is another very curious example. It consists of a heraldic poem, in Norman-French, recording the names and arms of the Knights who accompanied Edward I. to the memorable siege of Caerlaverock castle, in the year 1300. Copies of other Rolls of Arms of the time of

Besides *plate, pictures*, and other "moveables," *churches. castles*, and *monuments* frequently afford very interesting illustrations of ancient armorial ensigns. The most cursory examination of the admirable engravings in Mr. Billings' *Baronial and Ecclesiastical Antiquities of Scotland* will show that the mouldering edifices of our northern kingdom are by no means destitute of heraldic decoration. As examples, we may mention the cathedral of Glasgow; the abbeys of Paisley and Lincluden; the churches of Corstorphine, Midcalder, Douglas, and St. Monance; and more especially, the castles of Huntly, Fraser, Craigievar, Fyvie, Crathes, Glammis, Kellie, Winton, and Caerlaverock. These lapidarian records constitute a most important addition to the comparatively meagre array of early heraldic illustrations, and are well worthy of being preserved by means of accurate drawings or photographs. Had some such preservation been attempted, during the last 200 years, in the case of those churches and castles of which hardly a vestige now remains, and also in the case of the countless sepulchral monuments, which have been either entirely destroyed by (in)human hands or effaced by the gradual influences of time, how much valuable heraldic information might have been available which is now irrevocably lost! Even at the eleventh hour, however, much may yet be done; and a skilful artist, with a limited knowledge of blazonry, would find ample scope for his talents in the field which we have indicated.

Edward III. and Richard II. have been edited by Mr. R. Mores and Mr. Willement. (See Montagu's *Guide to the Study of Heraldry*, pp. 26, *et seq.*)

CHAPTER VI.

THE RIGHT TO BEAR SUPPORTERS.

Probably one of the most delicate and touchy points in Scottish heraldry is involved in the question relative to the right to bear supporters. The practice of granting these armorial appendages appears to have commenced about the middle of last century, and to have become very frequent during the time of Mr. James Home, who held the office of Lyon Depute from 1796 to 1819.[1] Great irregularities unquestionably occurred in consequence of the discretionary exercise of this power, which is certainly not conferred on the authorities of the Lyon Office either by the Act of 1592, or by the later Statute of 1672. By the Act 1662, c. 53, it is provided "that all such who, according to the addition of their honours, are to receive additions to their coats of arms, that they receive the same from the Lyon; and whoever shall offer to assume any addition without his approbation, they are to be punished according to the Acts of Parliament made against the bearers of false arms." It is quite evident that the term "addition" is not here intended to be used as synonymous with *mark of difference*, and in all probability it

[1] *Report on the Lyon Court*, 1822, p. 9.

refers to supporters and other *exterior* decorations; but it is unnecessary to speculate on the meaning of the clause, as the Statute in question was repealed the year after its enactment.

We have already seen that the position of the Lord Lyon is altogether different from that of the English Kings of Arms, inasmuch as he has no superior, like the Earl Marshal, to control or to interfere with his official proceedings; and perhaps this circumstance may have induced some authors to conclude that, in all armorial matters, his power is absolute and unlimited. With reference to supporters, there can be no doubt that, of his own authority, the Lord Lyon may grant these exterior ornaments to all who are *entitled* to obtain them by the heraldic practice of Scotland; and, moreover, that in certain special cases, as that of the family of Abbotsford, he may even transgress the established rules of the noble science. But these cases must indeed be very special; and the attendant circumstances ought to be of so peculiar a character, as to place the propriety of conferring the privilege in question beyond the challenge of the most critical herald. Had this principle always been acted on, the reputation of the Lyon Office would not have been so repeatedly assailed; and the bearing of the coveted distinctions would have been esteemed more honourable than it has been. No express mention of supporters is made in any of the Statutes relative to the jurisdiction of the Lord Lyon, but there can be no doubt that they are embraced within the general term "armorial bearings," or at least

that they form a part of what is usually called a heraldic achievement. The Act of 1672 recognises the power of the Lyon "to give *arms* to virtuous and well-deserving persons;" and, by the commission of the present Lord Lyon, he is invested with "nostram plenariam potestatem libertatem licentiam et auctoritatem insignia armoria personis virtute præditis et de nobis bene merentibus *juxta ordines et constitutiones eatenus præscriptas* dandi et concedendi," etc. It by no means follows, however, that in virtue of these provisions the Lord Lyon can, of his own authority, grant supporters—an armorial distinction of the highest order—to any "virtuous or well-deserving person," as a mere matter of *favour*. Such a prerogative can only be exercised by the Sovereign, as the Fountain of Honour, from whom the Lord Lyon himself receives his appointment.

There can be no doubt, however, that, although the authorities of the Lyon Office do not enjoy the privilege of making *discretionary* grants of supporters, they are fully entitled to decide whether or not a claimant of these honourable distinctions has a right to bear them according to the heraldic usage of Scotland. From the deposition of Mr. Tait, which has been already quoted, we learn that, since his appointment to the office of Lyon Depute, "several applications have been made for authority to bear supporters, but such authority has not hitherto been granted by him in any case, none of the parties applying having, in his opinion, established their right to obtain such authority;" and again, "with respect to the right of bearing supporters, this, the

deponent conceives competent to be granted in very few cases, . . . and he will furnish the Commissioners with a statement of what he considers to be the rule applicable to this case." That statement forms No. 7 of the Appendix to the latest Report on the Lyon Court, and is here introduced as being consistent, at least in most respects, with the opinions of our leading heraldic authorities.

"NOTE of Persons who are considered by GEORGE TAIT, Esquire, Lyon-Depute, to be entitled to Supporters, furnished to the Commissioners of Inquiry by their desire, intimated to him at his examination this day, 27th June 1821.

"1. *Peers.*—By immemorial usage, Peers have right to supporters, and supporters are commonly inserted in modern patents of peerage. This includes Peeresses in their own right.

"2. *Ancient usage.*—Those private gentlemen, and the lawful heirs-male of their bodies, who can prove immemorial usage of carrying supporters, or a usage very ancient, and long prior to the Act 1672, are entitled to have their supporters recognised, it being presumed that they received them from lawful authority, on account of feats of valour in battle or in tournaments, or as marks of the royal favour. (See *Murray of Touchadam's case*, 24th June 1778.)

"3. *Barons.*—Lawful heirs-male of the bodies of the smaller Barons, who had the full right of free barony (not mere freeholders) prior to 1587, when representa-

tion of the minor Barons was fully established, upon the ground that those persons were Barons, and sat in Parliament as such, and were of the same order as the titled Barons. Their right is recognised by the writers on heraldry and antiquities. Persons having right on this ground, will almost always have established it by ancient usage, and the want of usage is a strong presumption against the right.

"4. *Chiefs.*—Lawful heirs-male of Chiefs of tribes or clans which had attained power, and extensive territories and numerous members at a distant period, or at least of tribes consisting of numerous families of some degree of rank and consideration. Such persons will generally have right to supporters, either as Barons (great or small) or by ancient usage. When any new claim is set up on such a ground, it may be viewed with suspicion, and it will be extremely difficult to establish it, chiefly from the present state of society, by which the traces of clanship, or the patriarchal state, are in most parts of the country almost obliterated; and indeed it is very difficult to conceive a case in which a new claim of that kind could be admitted. Mr. Tait has had some such claims, and has rejected them.

"5. *Royal Commissions.*—Knights of the Garter and Bath, and any others to whom the King may think proper to concede the honour of supporters.

"These are the only descriptions of persons who appear to Mr. Tait to be entitled to supporters.

"An idea has gone abroad, that Scots Baronets are entitled to supporters; but there is no authority for this

in their patents, or any good authority for it elsewhere. And for many years subsequent to 1672, a very small portion indeed of their arms which are matriculated in the Lyon Register, are matriculated with supporters; so small as necessarily to lead to this inference, that those whose arms are entered with supporters had right to them on other grounds, *e.g.*, ancient usage, chieftainship, or being heirs of Barons. The arms of few Scots Baronets are matriculated during the last fifty or sixty years; but the practice of assigning supporters gradually gained ground during that time, or rather the practice of assigning supporters to them, merely as such, seems to have arisen during that period; and it appears to Mr. Tait to be an erroneous practice, which he would not be warranted in following.

"British Baronets have also, by recent practice, had supporters assigned to them, but Mr. Tait considers the practice to be unwarranted; and accordingly, in a recent case, a gentleman, upon being created a Baronet, applied for supporters to the King, — having applied to Mr. Tait, and been informed by him that he did not conceive the Lord Lyon entitled to give supporters to British Baronets.

"No females (except Peeresses in their own right) are entitled to supporters, as the representation of families is only in the male line. But the widows of Peers, by courtesy, carry their arms and supporters; and the sons of Peers, using the lower titles of the peerage by courtesy, also carry the supporters by courtesy.

"Mr. Tait does not know of any authority for the

Lord Lyon having a discretionary power of granting supporters, and understands that only the King has such a power.

"Humbly submitted by

(Signed) "G. TAIT."

The right of *Peers* to use supporters seems to be universally admitted, but it is somewhat doubtful whether the sons of noblemen, "using the lower titles of the Peerage by courtesy," are legally entitled to carry these heraldic appendages. The following passage from Nisbet seems to decide against the privilege, at least in the case of *younger* sons, although he evidently considers the practice rather anomalous, and even expresses an individual opinion which is contrary to the general rule:—"The right of using supporters," he says, "is hereditary with us in the lineal heirs and representatives of families; but not to the younger sons of collaterals, unless they become representatives of the family: neither in the greater or lesser nobility, which in the first seems strange, since the younger sons of Dukes and Marquises have the title of Lord prefixed to their names, and take precedency of hereditary Lords of Parliament. But though the titles they have be only temporary, and do not descend to their posterity, yet I am of opinion they may use supporters by the same right that Knights-bannerets did, whose dignity was also temporary, and that with their marks of cadency upon them, if agreeable, and if not, with other additional figures: for the same reason that they now of late

place the coronets of the respective dignities of their fathers on their helmets" (a very questionable proceeding), "to show the eminency of their birth."[1] It would appear that supporters are very generally assumed, not only by the heirs-apparent, but also by all the younger sons of Peers, to whom the prefix of "Lord" is allowed by courtesy. Among Nisbet's numerous plates of achievements, however, while we find the shield of the Master of Cathcart supported by two parrots, each charged, like the escutcheon, with a label, as a mark of difference,[2] no supporters appear in any of his engravings of the arms of *younger* sons of noblemen, which include the bearings of Lords Alexander and William Hay, and Lord Charles Ker.[3] The question seems to have been brought under the notice of Sir Isaac Heard, Garter King of Arms, by a Scottish nobleman towards the beginning of the present century. In the year 1807, the twelfth Earl of Eglinton communicated with the Garter King respecting the right of his son and daughter-in-law, Lord and Lady Montgomerie, to bear the family supporters; and the precise nature of the application will fully appear from the subjoined reply of his heraldic majesty:—

"College of Arms, London,
15*th April* 1807.

"My Lord,—I had yesterday the honour of receiving your Lordship's letter of the 11th inst., in which you desire my opinion whether Lord Montgomerie may

[1] *System of Heraldry*, vol. ii. part iv. p. 33.

[2] *Ibid.* vol. i. plate 14.

[3] *Ibid.* vol. i. plates 11, 15, 16.

properly bear the supporters of the Earls of Eglinton, either as heir-apparent to the earldom, or in right of Lady Montgomerie, his wife, the eldest daughter and co-heir of Archibald, late Earl of Eglinton; and your Lordship adverts to the circumstance, that the said late Earl's father had acquired, by purchase, a considerable real estate, which having been entailed upon his heirs-female, devolved, upon the death of the late Earl, to the present Lady Montgomerie. I have the honour to observe, in reply, that according to the law and usage in England in that respect, Lady Montgomerie cannot properly bear the supporters of her late noble father, the same being annexed to the earldom; nor could I, as Garter King of Arms, exemplify those supporters to Lord Montgomerie during your Lordship's life. In all patents of supporters, the grant is to the person bearing the title, and to those to whom the honour shall descend, according to the letters-patent of creation. Supporters are, therefore, a personal distinction, and I should presume that the same rule must obtain in Scotland.

"The circumstance of the inheritance of real estates by Lady Montgomerie, to which your Lordship alludes, does not constitute any exception to the above general rule. I should mention, however, that in cases of dignities in fee, descendible to heirs-general, the lady on whom such a dignity devolves may bear the supporters annexed to the same.

"Your Lordship having included the arms in your question, I beg to add, that the family arms of the late Earl of Eglinton should be borne on an escutcheon of

pretence in the armorial achievement of Lord and Lady Montgomerie.

"I shall always have a pleasure in rendering the best attention in my power to any of your Lordship's commands. I have the honor to be, etc. etc.

"ISAAC HEARD, *Garter*.[1]

"THE EARL OF EGLINTON,
ETC. ETC."

Notwithstanding this very decided opinion, Lord Eglinton appears to have given way on the urgent remonstrance of his son; and the full Eglinton arms were even allowed to be used by Lord Montgomerie's widow after his death, which occurred before that of his father. On Lady Montgomerie's second marriage, however, Lord Eglinton considered it to be his duty again to interfere in the matter, and in the year 1815, we find him in communication with his London solicitor, firmly, but most delicately, insisting on the discontinued use of the Eglinton arms by Lady Montgomerie.

The question as to the right of lesser *Barons* to supporters occurs in the very first of our heraldic cases, for a report of which we are indebted to Lord Fountainhall.[2] In the year 1673, certain "Barons and Gentlemen," including the Lairds of Dundas, Hatton, and Polmaise, appear to have "intended" a process against the Lyon, to have it "found and declared that he had done wrong in refusing to give them forth their coats-of-arms with supporters, whereof they and their predecessors had been

[1] Fraser's *Memorials of the Montgomeries* (privately printed), vol. i. p. 377.

[2] Sundry Barons *v.* The Lord Lyon, June 1673; Brown's *Supplement*, vol. iii. p. 6.

in possession past all memory, and never quarrelled till now." In answer to an allegation of the Lyon that, by an express letter of the King, "none under the dignity of a Lord must use supporters,"[1] they are said to have pleaded that "Lords at the beginning were only Barons;" and they also denied that any of their privileges were affected by the Act of 1587, which only dispensed with their attendance in Parliament. The result of this curious case does not appear to be recorded, but there can be no doubt that the right to use supporters has long been ceded to the representatives of minor Barons, as well as to *Chiefs of families*, in accordance with the opinion of Sir George Mackenzie. "I crave liberty to assert," he says, "that all our Chiefs of families and old Barons in Scotland may use supporters; for besides that to be a chief was of old, and is still reputed an honour, though it be adorned with no mark of nobility; yet these chiefs have prescribed a right to use supporters, and that such a right may be prescribed, I have proved formerly; and what warrant is for most of our rules in Heraldry, but in aged custom? and that they have constantly used supporters past all memory of man, even when they were knights, is clear from many hundred (?) instances. Thus the (Halyburtons) Lairds of Pitcur did, and do use two wild cats for their supporters; Fotheringham of Powry, two naked men; Irvine of Drum, two savages wreathed about head and loins with holly, and bearing batons in

[1] The following note here occurs in the margin of Lord Fountainhall's MS.:—"He (*i.e.*, the Lyon) grants them now to some who were in possession of them of old."

their hands; Moncrieff of that Ilk, two men armed at all points, bearing pikes on their shoulders: And many of our noblemen have only retained the supporters which they formerly had; and that of old Barons might use supporters *de jure*, seems most certain, for they were members of Parliament with us, as such, and never lost that privilege, though, for their conveniency, they were allowed to be represented by two of their number (in each shire), and therefore such as were Barons before that time (*i.e.*, 1587) may have supporters as well as Lord Barons; nor should we be governed in this by the custom of England, seeing there is *dispar ratio*, and this is now allowed by the Lyon to such."[1]

Besides the four families specified by Sir George Mackenzie, Nisbet[2] mentions the following as bearing supporters, in the capacity of Chiefs of clans or representatives of ancient Barons, their use of these appendages being "instructed" by seals, old books of blazons, and sculptures on edifices and tombs:—The Homes of Wedderburn, the Kirkpatricks of Closeburn, the Murrays of Touchadam and Polmaise, the Maxwells of Polloc, the Dunbars of Westfield, the Farquharsons of Invercauld, the Edgars of Wadderly, the Nisbets of Dean,[3] the Haigs

[1] *Science of Heraldry*, chap. xxxi.

[2] *System of Heraldry*, vol. ii. part iv. p. 32.

[3] The worthy herald justifies the use of the supporters, and the discontinuance of the chevron as a mark of cadency by the family of Dean, on account of its being the only family of the name in Scotland "that has right, by consent, to represent the old original family of the name of Nisbet; since the only lineal male representer (the author of this System) is like to go soon off the world, being an old man, and without issue male or female." Several of the sculptured coats-of-arms which for-

of Bemerside, the Barclays of Towie, the Douglases of Redhouse, the Montgomeries of Lainshaw, the Woods of Craigie, the Grahams of Netherness, the Bruces of Airth; and the Dundases, Fullartons, Inneses, Pollocks, Dalmahoys, and Skenes of their respective Ilks. The same author also refers to the fact of several noble families—including the Earls of Home, and the Lords Cranstoun and Somerville—having used the supporters which they at present bear long before they were raised to the peerage. With respect to supporters borne by private families, Edmondson remarks "that those families who anciently used such supporters, either on their seals, banners, or monuments, and carved them in stone or wood, or depicted them on the glass windows of their mansions, and in the churches, chapels, and religious houses, of their foundation, endowment, or patronage, as perspicuous evidences and memorials of their having a possessory right to such supporters, are fully and absolutely well entitled to bear them; and that no one of the descendants of such families ever ought to alienate such supporters, or bear his arms without them, because such possessory right is by far more honourable than any modern grant of supporters that can be obtained from an Office of Arms."[1]

The following observations from a MS. of Wingfield, York Herald, of the English College of Arms (1663-74),

merly embellished the old mansion-house of Dean, in the neighbourhood of Edinburgh (which was demolished in the year 1845), are now built into one of the terrace-walls of the cemetery which occupies its site.

[1] *Complete Body of Heraldry*, i. 192.

are printed in Dallaway's *Heraldic Inquiries* (p. 96) :—
"Anciently there was noe written precedent for ordering the bearing of supporters, nor for limiting them to the major nobilitie. The ancientest memorials are those inscribed in the old seales of many families, both peers, knights, and esquires, which is conceived among knights to mean knights bannerets, in the rest official dignities. The moderne use of them is now chiefly in the greater nobility, and knights of the garter, or persons that were of the privy-council, or had some command whereby they had the title of Lord prefixed to their style, as Lord Deputy of Ireland, Lord Warden of the Cinque Ports, Lord President, Counsellors of the North or Marches of Wales, or Lord Warden of the Stanneries. That the peers of the realm did and might bear them, is not the question. That others under the degree of peers in Parliament did bear them, and by what reason or right, and how the precedent of their ancestors bearing supporters may justify the use of them in lineal heirs, is the question. It is confessed there is little or nothing in precedent to direct the use of supporters. I suppose, since custom and practice hath reduced the use of bearing supporters to the major nobility, no inferior degree may now assume them, nor may Garter assign them to the lesser nobility. But these families, whose ancestors have used supporters, whose monuments are accomplished with them, whose houses are adorned with them, and whose pious foundations continue them, the churches, chapels, and religious places whereof they were patrons, founders, and benefactors, that render memorials of them, have such possessory

right unto them that they cannot be suppressed or alienated, but may safely and justly continue."[1]

Although supporters have generally been carried by Chiefs of clans, several of the lesser Barons have not thought proper to use them; but they have always been borne, not only by many of their number on whom the dignity of Baronet was conferred, but also by several others who were never honoured with that distinction.

In some instances, the privilege of using supporters has been established by *ancient usage*, and is altogether independent of Chieftainship or Baronial rank; but the presumption in favour of this prescriptive right is very generally confirmed by one or both of these additional qualifications. "There are many more gentlemen," says Nisbet, "besides the ancient Barons and Chiefs of families, who have supporters added to their blazons in our new Register of Arms, having right, as I suppose, by concession or prescription."[2] We have already seen that the prerogative of *concession* has not always been confined to the Sovereign (as Nisbet unquestionably implies it ought to be), but has sometimes been most unwarrantably exercised by the authorities of the Lyon Office, in utter disregard of heraldic principles. It would be no very difficult task to adduce several examples of such irregularities, but a single instance will perhaps be deemed sufficient; and it may be observed that a family

[1] "For proof and illustration," the writer also specifies "some few precedents of this nature, collected out of many that are observable in every shire;" and his list embraces the Scottish surnames of Balfour and Napier.

[2] *System of Heraldry*, vol. ii. part iv. p. 33.

of distinction has been purposely selected. After blazoning the arms of Dundas of Arniston, without any mention of supporters, Nisbet goes on to say that "the first of this family was Sir James Dundas, son of the second marriage of George Dundas of that Ilk, and his wife, Katharine Oliphant, daughter to the Lord Oliphant. His son, Sir James, was one of the senators of the College of Justice, and his grandchild, the present Robert Dundas of Arniston, also another senator of that learned bench, obtained from the Lyon Herald a new extract of the foresaid blazon, *with the addition of supporters*, viz., that on the right side, a lion rampant *gules*, and the other, on the left, an elephant proper, to show his descent from the Lord Oliphant."[1] It does not appear upon what ground the additional grant of supporters was here made, and we are unable to discover that it was justified by any of the special circumstances enumerated by Mr. Tait. Sir George Mackenzie quotes the opinion of Chassaneus, to the effect that "an heritable sheriff, or an *eminent judge* may take supporters;"[2] and were we satisfied that such a privilege derived any sanction from the heraldic usage of Scotland, there certainly could not be the shadow of an objection to the use of these appendages by the family in question, to whose judicial eminence it is almost unnecessary to allude.[3]

[1] *System of Heraldry*, i. 275.

[2] *Science of Heraldry*, chap. xxxi.

[3] Since writing the above, the author has been informed by the present representative of the family of Arniston that two lions occur as supporters, with the date 1594, on the portrait of Sir James Dundas, Governor of Berwick (the first of the House of Arniston)—the crest being a lion's head, "couped," (?) instead of a lion's head, "affrontée, struggling through an oak branch," and the motto "Avant" instead of "Essayez."

Besides *Knights of the Garter*, of the *Thistle*, and of *St. Patrick*, who are now usually if not invariably Peers, *Knights Grand Crosses of the Bath*, and also of the Order of *St. Michael and St. George*, are dignified at their creation by a grant of supporters, which, however, are only personal. It is not quite clear when supporters first became the distinguishing mark of the Peerage and the higher Orders of Knighthood, but they appear to have been pretty generally used by both Noblemen and Knights of the Garter before the middle of the sixteenth century. The first stall-plate of a Knight of the Garter bearing supporters is that of John Beaufort, who was elected into that Order in the twentieth year of the reign of Henry VI. (1442); but it has been doubted whether the plate itself is of so early a date.[1] The only other persons entitled to the use of supporters are those on whom they are directly conferred by the Sovereign. They have, however, been occasionally granted to some of the principal *Corporations* both in England and Scotland, but are generally of a later date than the other parts of the achievements. In the case of the Ironmongers (of England) they were granted as far back as the year 1560, which is supposed to be the earliest instance of the use of supporters by a corporate body.

That part of Mr. Tait's opinion which calls in question the right of Scottish Baronets, *as such*, to use supporters, appears to rest on very solid grounds. Not many years ago, a great clamour was raised in certain quarters re-

[1] *Archæologia*, vol. xxxi.

specting some imaginary rights and privileges of the whole Order of Baronets, including "honorary epithets, secondary titles, personal decorations, and augmented heraldic bearings." Besides a proposed petition to her Majesty for a distinctive *coronet*, a claim to supporters was boldly advanced on the unwarranted assumption that all Baronets must be regarded as *Nobiles majores*, from the circumstance of their being possessed of hereditary titles,[1] and because it is declared in one of the Royal Ordinances by which the Order is established, that "if any doubts or questions not thereby, nor by any our recited letters-patent, cleared and determined, do or shall arise, such doubts or questions shall be decided and determined by and according to such usual rules, customs, and laws, for place, precedency, privilege, or other matters concerning them, as other degrees of dignity hereditary, are ordered and adjudged." It was also urged that Baronets are entitled to supporters, because they happen to take precedence of Knights of the Bath, who, as already stated, have a right to use these armorial distinctions; and much stress was laid on the fact that supporters are borne by the Baronets of Scotland—"a junior branch of the Order." The utter groundlessness of these modest pretensions, was ably exposed in the *Athenæum* of the 16th and 20th May 1840, in a review of two of the pamphlets by which they were advocated,

[1] No such idea seems to have been entertained by Sir Robert Douglas, who includes the pedigrees of the Baronets in his *Baronage*, or Genealogical Account of the *Gentry* of Scotland. In some modern "Red books," the pretensions in question are somewhat encouraged by the circumstance of the Baronets being embraced along with the Peerage.

from which we make the following quotation respecting the claim to supporters: —"In the time of James I. (of England), supporters were confined to Peers and Knights of the Garter; and they were not borne by Knights of the Bath until the creation of that Order as a regular military Order of Knighthood by George I. in 1725, for which purpose a special statute was issued. The propriety of assigning some armorial distinction to the Baronets did not escape their royal founder; and, in the decree of 1612, which settled so many other points connected with their position and privileges, the King granted that 'the Baronets and their descendants shall and may bear, either in a canton in their coat of arms, or in an inescutcheon, at their election, the arms of Ulster —that is, in a field *argent*, a hand *gules*, or a bloody hand.' Not a word occurs about supporters; and as the use of these heraldic ornaments was then as well known, and governed by as strict rules as at present, no one can believe that if it had been intended that Baronets should bear them, words to that effect would not have been introduced into the decree. The '*fair presumption*' that it was unnecessary to specify them because it was a privilege 'that the members of the Order should bear supporters,—that privilege having been incidentally conferred by the charters granting to the Baronets that they should be adjudged in all things relating to title, dignity, privilege, and other matters, as other degrees of hereditary dignity then and theretofore were ordered and adjudged,'—is scarcely deserving of notice; for it is obvious, from the context, that this analogy is only to

apply in cases of '*doubts or questions, not cleared and determined*' by that decree, or the former patents '*concerning place, precedency, privilege, or other matters* touching the Baronets, their heirs-male apparent, their wives, their eldest sons and their wives, their daughters, their younger sons and their wives, or any of them.' In that clause, 'privilege, or other matters,' are the only words that can by any possible construction include 'supporters;' but the whole sentence shows that no other matters than those connected with *place and precedency* were contemplated, because the children and the wives of the sons of Baronets are placed in the same category as the Baronets themselves. Moreover (we must repeat), it is only when '*doubts or questions not hereby*, nor by *any our* recited *letters-patent cleared and determined*' arise, that a reference to the usage respecting 'other hereditary dignities' is to be made. But what doubt has ever arisen, or can properly or fairly arise, respecting the armorial bearings of Baronets, when that very decree itself clearly and specially points out what their armorial distinctions shall be? On the next assertion, that the '*fairness*' of the claim may be drawn from the precedency of the 'Baronets above the Knights of the Bath; those Knights having supporters, it is not unreasonable to argue that the superior order should have them likewise;' it is sufficient to remark, that, at the institution of Baronets, Knights of the Bath did not bear supporters; that when they were assigned to them in 1725, the constitution of the Order had been entirely altered; that the Knights then consisted of only thirty-

seven persons, and even now scarcely exceed one hundred, many of whom are Peers; that the Order of the Bath is one of the few rewards the Crown has to bestow for distinguished service to the State, whereas the first Baronets actually *bought* their dignity. There are now *nine hundred* Baronets, and they are constantly increasing; so that, to extend the distinction, as a *hereditary* right, to so large a body, would inevitably destroy its value."

The Reviewer goes on to notice the argument which is founded on the use of supporters by the Baronets of Scotland, and after referring to the peculiarity in Scottish Heraldry by which these exterior decorations are not confined to the peerage, he adopts the erroneous opinion that the "Lord Lyon is empowered to grant them at his discretion," a privilege which is certainly not possessed by the Earl Marshal of England. "Whether the Lord Lyon," he continues, "who granted supporters to the Baronets of Nova Scotia, was justified in doing so, has but slight bearing on the present occasion. The words of the patents of Nova Scotia Baronets, their number, and the usage in Scotland, are altogether different from those of England; so that his decision, supposing it (which is by no means conceded) to have been a proper one, cannot be deemed a precedent for admitting the pretensions of the Baronets of England and Ireland to the same distinction."[1]

[1] The whole of this able Review is preserved in a little volume, published in 1846, on the subject of the Nova Scotia Baronets, by an accomplished antiquary (W. B. D. D. Turnbull, Esq., Advocate), which contains

It does not appear, however, as already stated, that there is any authority, either in their patents or elsewhere, to justify Scottish Baronets in the use of supporters; and the unwarrantable practice which led to an opposite opinion is distinctly set forth in Mr. Tait's *Note*. The original constitution of the Scottish Order contains a clause which declares "that if any doubts or questions arise concerning any place, precedency, or prerogative due to the Baronets, at whatsoever time to come, such doubts and questions shall be determined and decided by the use and practice of custom and law, as other hereditary degrees of dignity are ordained and directed, con-

some curious genealogical revelations, and comments, with great justice and propriety, on the numerous evils which then resulted from the indefensible system of Scottish "Services," in the case of hereditary titles. Instead of raising a contemptible outcry about imaginary privileges, the "illustrious" Order of Baronets would assuredly have added to their reputation by a resolute endeavour to improve these legal nuisances, in virtue of which several existing Scottish Baronetcies were most unjustly assumed. Considering the fraudulent pretensions of these false Baronets, it would be well if some of our untitled gentlemen, whether landed or professional, would dispute their precedency, instead of encouraging the paltry imposition by acknowledging the assumed superiority.

Shortly after the publication of Mr. Turnbull's volume, the service of heirs was placed on its present greatly improved footing by the Act 10 and 11 Vict. c. 47. The old "Brieve of Inquest," which issued from Chancery, and which was followed by the verdict of a jury, was abolished by that Statute, and is now superseded by the *Petition of Service*, addressed either to the Sheriff of the county in which the deceased was domiciled, or to the Sheriff of Chancery, whether the service be general or special. If the deceased had no Scottish domicile, or if the claim be for special service to lands in different counties, the petition is competent to the Sheriff of Chancery only. In the case of competing petitions, as well as where the application is unchallenged, the Sheriff's judgment takes the place of the verdict of the jury. The proceedings, however, may be advocated to the Court of Session for jury trial; and, in certain circumstances, the Sheriff's judgment may be brought under review by a note of advocation.

cerning place, prerogative, and precedency." It is quite unnecessary to make any comments upon the terms of this provision, which, it will be observed, is almost identical with that already discussed as relating to the Baronets of England. In the later patents of Scottish Baronets, we find a clause respecting their armorial bearings which is usually of the following tenor :—"Mandamus per præsentes Leoni nostro Regi armorum suisque fratribus fecialibus ut tale additamentum armorum præsentibus insigniis prænominati A. B. sicuti talibus casibus usitatum est dent et præscribant." Another specimen may be given as exhibiting a slight variation in the words, without, however, affecting the meaning of the injunction :—"Leoni porro Armorum Regi ejusque fratribus fecialibus additamenta præsentibus insigniis armoriis dicti C. D. quæ huic occasioni congrua et idonea videbuntur dare et præscribere imperamus." A good deal, of course, must depend on the interpretation of the word "additamentum;" but a reference to the matriculations in the Lyon Register, during the purer days of Heraldry, will prove that supporters were not included in the expression "talibus casibus usitatum." In later times, no doubt, a very lax and unwarrantable practice was gradually introduced by the authorities of the Lyon Office, who seem to have considered these heraldic appendages to be "congrua et idonea" in almost any case, where "Regina pecunia" thought proper to raise her persuasive voice. As in the case of the English Order, a distinctive badge was assigned to the Baronets of Scotland, to which there can be very little doubt that the

clause under consideration refers. It is expressly ordained, in their earlier patents, "that the Baronets, and their heirs-male, should, as an *additament of honour* to their armorial ensigns, bear, either on a canton or inescutcheon, in their option, the ensign of Nova Scotia, being *argent*, a cross of St. Andrew *azure* (the badge of Scotland counterchanged), charged with an inescutcheon of the royal arms of Scotland, supported on the dexter by the royal unicorn, and on the sinister by a savage or wild man, proper; and for crest, a branch of laurel, and a thistle issuing from two hands conjoined, the one being armed, the other naked; with the motto, *Munit hæc et altera vincit.*" The incongruity of these exterior ornaments within a shield of arms is noticed by Nisbet, who informs us, however, that they were very soon removed. In the year 1629, after Nova Scotia was sold to the French, the Baronets of Scotland, and their heirs-male, were authorized by Charles I. "to wear and carry about their necks, in all time coming, an orange-tawny silk ribbon, whereon shall be pendent, in a scutcheon *argent*, a saltire *azure*, thereon an inescutcheon of the arms of Scotland, with an imperial crown above the scutcheon, and encircled with this motto, *Fax mentis honestæ gloria.*" According to the same authority, this badge was never much used "about their necks," but was carried, by way of canton or inescutcheon, in their armorial bearings, without the motto. The honest herald urges various objections to such a mode of bearing the honourable cognizance, which, he reasonably considers, instead of occupying a place within the shield, ought to

be pendent therefrom, according to the usual practice of all other collared knights.[1] But whether the badge in question is placed within or without the escutcheon, if we except the distinctive *helmet* which appertains to Knights and Baronets generally, there can be very little doubt that it is the only heraldic "additamentum" which the Scottish Order are entitled to bear.

The same view is adopted by Edmondson in his "Account of the Baronets of Scotland," where he remarks that "a misconstruction of the clause in their earlier patents (already referred to) hath induced some of the Baronets of Scotland to suppose that, by virtue of their patents, they are entitled to add supporters to their paternal coats; and they accordingly wear them in their armorial ensigns. But an impartial and deliberate consideration of the above clause will convince them of their mistake; more particularly as it is not pretended that there ever was any other royal grant or warrant issued, whereon they can found a claim to such privilege. Further, all the patents granted to the Nova Scotia Baronets in the year 1629, and subsequent thereunto, are made shorter than the preceding patents; are granted in general terms; omit the whole of the clause relative to the above-mentioned addition of honour to be borne on their paternal coats; and grant them a different privilege,"—viz., the badge of the orange-tawny ribbon and relative accompaniments.[2]

The following Table has been compiled from a com-

[1] See Nisbet's *Heraldry*, vol. i. p. 188, and vol. ii. part iv. pp. 123, *et seq.*

[2] *Complete Body of Heraldry*, vol. i.

paratively recent edition of Burke's *Peerage and Baronetage*, to illustrate the proportion of Baronets in the respective Orders by whom supporters are used :—

Existing Baronets.	Use Supporters.	No Supporters.	Total.
England (1611-1707), . . .	9	148	157
Scotland (1625-1707), . . .	97	36	133
Ireland (1620-1801), ...	3	79	82
Great Britain (1707-1801), . . United Kingdom (subsequent to 1801), ...	80	520	600
	189	783	972

It would appear, therefore, that supporters are carried by less than one-fifth of the existing Baronets, and of these more than one-half belong to the Scottish Order. Only nine out of one hundred and fifty-seven Baronets of England, and only three out of eighty-two Baronets of Ireland, add supporters to their escutcheons, being no doubt fully justified in doing so, not as the holders of hereditary titles, but as the representatives of families who have used these exterior distinctions from time immemorial.[1] Among the large majority, on the other hand, who bear no supporters, we find many ancient and important families, of whom it may be sufficient to men-

[1] Of these is the ancient family of Tichbourne, in Hampshire, every member of which, according to the *Oxford Glossary of Heraldry* (p. 299), is entitled to use supporters, contrary to the general rule, which confines them to the head of the House. As other examples of *untitled* English families who bear supporters by prescriptive right, we may mention the Fulfords of Great Fulford, in Devonshire, the Luttrells of Somersetshire, the Savages of Cheshire, and the Trevanions of Cornwall. The heads of the different Septs in Ireland are said to assert their claim to supporters, which are also adopted by the Welsh Barons of Edeirnion and their descendants.—See Burke's *Patrician*, vol. i. p. 31.

tion the Bacons of Redgrave (Premier Baronets of England), the Gerards of Bryn, the Temples of Stowe, the Trelawneys of Trelawney, the Burgoynes of Sutton Park, the Blounts of Soddington, the Massey-Stanleys of Hooton, the Mostyns of Talacre, the Cooks of Ballyfin, the Butlers of Garryhundon, the Moores of Ross Carbery, and the O'Briens of Dromoland.

Although many of the Scottish Baronets who use supporters are fully entitled to do so on the ground of chieftainship, ancient usage, or as being the representatives of lesser Barons, there can be no doubt that a very considerable number of them have no more right to these exterior ornaments than any ordinary untitled commoner. Any one who takes the trouble to consult the pages of Nisbet will find the arms of many Baronets of Scotland, who now use supporters, without any mention of these honourable distinctions, of whom we may notice by way of example, the Riddells of Riddell, the Agnews of Lochnaw, the Maxwells of Monreith, the Clerks of Penicuik, and the Hopes of Craighall. Again, among the minority of existing Scottish Baronets who do not carry supporters, we find the well-known families of Murray of Ochtertyre, Pringle of Stitchell, Stewart of Grandtully, Maxwell of Calderwood, Foulis of Colinton, Anstruther of Balcaskie, and Balfour of Denmiln.[1]

Out of the six hundred existing Baronets of Great

[1] The first Baronet of Denmiln was Sir James Balfour, who filled the office of Lyon King-at-Arms during the reign of Charles I.

The arms of Gordon of Letterfourie, Premier Baronet of Scotland, are also blazoned by Sir Bernard Burke without supporters, which, however, are assigned to the family in Douglas's *Baronage*.

Britain and the United Kingdom, the arms of eighty, or nearly one-seventh, are blazoned with supporters. Several of these can point to chieftainship or ancient usage in justification of the privilege, while upon others it has been *directly* conferred by royal license. In numerous instances, moreover, supporters have been granted, along with "augmentations" to the escutcheon, in acknowledgment of distinguished services in the cabinet or on the field of battle, and several of our modern Baronets bear these exterior ornaments as Knights Grand Crosses of the Bath. But we must not fail to observe that supporters are carried by several modern Baronets connected with Scotland, who cannot possibly establish their right to bear them in accordance with the strict principles of pure heraldry. In the cases of Scott of Duninald and Fraser of Ledeclune, these honourable distinctions are said to have been "*ratified and confirmed* by patent from the Lord Lyon King-of-Arms," while "two horses, proper, being the supporters of the extinct Lords Rutherford," were granted to the first Baronet of the family of Antrobus, on his purchasing the estate of Rutherford in the county of Roxburgh![1] Without the very slightest intention of giving offence, as affording other examples of a *questionable* right to supporters, we may adduce the highly respectable families of Baillie of Polkemmet, Buchan-Hepburn of Smeaton, Campbell of Barcaldine, Dalrymple-Hay of Glenluce,

[1] The same supporters, as well as the arms of Rutherford, are carried by the Durhams of Largo, as heirs of line of the old Lords Rutherford, whose Peerage they are understood to claim.

Dundas of Beechwood, Hunter-Blair of Blairquhan, Mackenzie of Kilcoy, Macpherson-Grant of Ballindalloch, Maxwell of Cardoness, Riddell of Ardnamurchan, and Walker-Drummond of Hawthornden.

Some persons will doubtless feel surprised to find the use of supporters denied to an honourable section of the community which is dignified with a hereditary title, while it is conceded to many families who are possessed of no such distinction. But they must bear in mind that the order of Baronets is an institution of comparatively modern date, and the apparent anomaly is at least partially explained by the following passages from Sir George Mackenzie's treatise on Precedency:—"When taxations were laid on by the Council, I find by the old records, as particularly in October 1562, that Noblemen and Burgesses are called but no Barons, the Barons and Noblemen having been then represented promiscuously, and that long after the Act of Parliament allowing them to send commissioners; and this is the reason, why our old Barons, who are not Lords, and hold only their lands in free Barony, have supporters in their achievement; and that with some reluctancy they yield the precedency to Knights-Baronets, they being originally heritable counsellors to the King, as members of Parliament, and not debarred." Again, he observes, that "the old Barons (or Lairds) amongst us, especially where they are Chiefs of Clans, or the representatives of old families that were Earldoms (as Pitcur is of the Earl of Dirleton, and as Chief of the name of Halyburton), have never ceded the precedency to Knights-Baronets, much less to ordinary

Knights, though the other pretend that a Baron is no name of dignity, and that Knights-Baronets have a special privilege, that there shall be no degree betwixt them and Lords, except the Bannerets: And though *militia non est per se dignitas*, yet generally it is believed, that next to Knights-Baronets succeed Knights-Bachelors, and next to them our Lairds or Landed Gentlemen, though a Laird, in effect, is but the corrupt word of a Lord."[1]

It is by no means certain, as stated by the Interim Lyon-Depute, that with the exception of Peeresses in their own right, no women are entitled to wear supporters. According to Mackenzie, they "*generally* use no supporters, but surround their shields with a cord of their colours," the *cordelière* being borne by widows, and the *lacs d'amour* by maids. Supporters, however, have been frequently granted to females by the authorities of the Lyon Office, which practice will be afterwards noticed in connexion with the subject of heraldic succession. In some of the more recent patents, a clause of destination is, no doubt, inserted, which tends to corroborate the statement of Mr. Tait, that "the representation of families is only in the male line;" but the practice appears to have been so varied that no general rule can

[1] *Treatise on Precedency*, chapter viii. The learned author concludes the same chapter in the following terms:—"Tho' generally it be believed that gentlemen have no precedency one from another, yet reason and discretion do allow that a gentleman of three generations should cede to a gentleman of ten, if there be not a very great disparity betwixt their fortunes; and that for the same reason almost that a gentleman of three generations claims precedency from any ordinary landed man who has newly acquired his lands."

be deduced from the entries in the Register, to a few of which we now intend to allude. In the year 1813, for example, supporters were granted to John Ramsay L'Amy of Dunkenny, as Chief of the surname of L'Amy, and representative of the family of Dunkenny ; but they are limited, along with the rest of the arms, "to the heirs-male of his body."[1] While the propriety of such a limitation admits of very great doubt, the remarkable inconsistency of this particular remainder arises from the fact of the diploma distinctly narrating that the grantee derives the headship and representation of the family, through the *female* heir-general, to wit, his own mother, Margaret L'Amy, the lineal descendant of Alexander L'Amy (or more probably Lammie), who died in 1518—the patentee's father being James *Ramsay* of Chapelton. We have already expressed a qualified opinion in favour of the views set forth in Mr. Tait's "Note," so far as it enumerates the principal grounds of right to supporters, but the theory in terms of which he would confine their use to heirs-male, and even to heirs-male of the body, appears to be open to question. As already stated, however, the consideration of this point will necessarily fall to be treated under the inquiry into the rules and principles which regulate heraldic succession in general.

In the year 1855, we find an entry in the Register relative to the armorial insignia of Lady Mary Christopher-Nisbet-Hamilton (formerly Christopher) of Blox-

[1] Lyon Register, ii. 93. This limitation does not appear in the Record, which we are informed does not always embrace the *destination* of the arms.

holm, in Lincolnshire, and of Dirleton and Belhaven in the county of Haddington, spouse of the Right Honourable Robert Adam Christopher-Nisbet Hamilton, and eldest surviving child of the marriage between the late Thomas Earl of Elgin and Kincardine and his Countess Mary, only child and heiress of William Hamilton-Nisbet of Dirleton and Belhaven by his wife Mary Hamilton, heiress of Pencaitland. The first and fourth quarters of the escutcheon exhibit the arms of Hamilton, and the second quarter those of Nisbet, as recorded in 1801 for the patentee's maternal grandfather; while the third quarter contains the arms of Christopher, conform to an exemplification granted by the English College of Heralds in 1836. These arms are impaled in the Register with those of the patentee's husband[1] (which consist of the *same* quarterings), the bearings of Hamilton and Nisbet being destined to the patentee and the heirs of her body, and "in the special circumstances of this case" (which however are not specified) "authority is granted to the said patentee and her heirs aforesaid only, to continue to use the supporters conceded to the said William Hamilton-Nisbet, Esquire," in 1801.[2] In this case, as well as in that of Dunkenny, it may perhaps be alleged that the supporters were granted on the understanding that there was no heir-male to dispute the

[1] The Register furnishes very few examples of "Baron and Femme." In the year 1845 (vol iv. p. 87) the bearings of Sir James Gardiner Baird (great-great-grandson of the brave Colonel Gardiner) are impaled with those of his wife, Henrietta-Mary, daughter of the late John Wauchope of Edmonstone, and sister of the present Sir John Don Wauchope of Newton.

[2] Lyon Register, v. 77.

concession; but we merely refer to these grants as illustrative of a practice altogether opposed to the opinion of Mr. Tait.[1]

Why supporters were granted in the year 1809 to Sir James Shaw, formerly Lord Mayor of London, is not very satisfactorily explained in the following narrative of the Lord Lyon: —"And we, being desirous, conform to the powers vested in us by the Laws and Practice of Heraldry in Scotland, and letters-patent by which we were created Lord Lyon King of Arms, to confer a mark of His Majesty's and our own approbation of the public services of the said Sir James Shaw, on account of which he has been lately raised to the dignity of a Baronet of the United Kingdom of Great Britain and Ireland, Have therefore resolved to add to the arms above recited the supporters following," viz., a wild man, emblematical of Fortitude, and a female figure, emblematical of the city of London—the destination being to the said Sir James and the heirs-male of his body.[2] In the year 1816, a still more extraordinary concession of supporters was made to Sir Jonathan Wather Waller, Baronet, of Braywick Lodge, in the County of Berks, and of Twickenham in the county of Middlesex, with a similar destination. In this case, the supporters are two elaborately "harnessed" ancient warriors, "to commemorate the surrender of Charles, Duke of Orleans, at the memorable battle of Agincourt (that word being the motto over the

[1] On a still more recent occasion, supporters have been granted, along with certain additional quarterings, to Mr. Haldane-Oswald of Auchencruive, as heir-general of the ancient family of Haldane of that Ilk, in the county of Roxburgh.

[2] Lyon Register, ii. 35.

crest) in the year 1415, to Richard Waller of Groombridge in Kent, Esquire, from which Richard the said Sir Jonathan Wather Waller is, *according to the tradition of his family*, descended."[1] The reason adduced for granting supporters to Sir Coutts Trotter, "Banker in London," and to Sir James Hunter Blair, about ten years later, is also very strange; but the Lord Lyon's parenthetical resolution (in the former of these two cases), to regulate the concession of such armorial distinctions by strict heraldic practice is a very comforting compensation. The narrative proceeds as follows:—"Whereas Sir Coutts Trotter, Baronet, Banker in London, hath in a petition of date 13th October 1826, represented to us (the Lord Lyon) that, in January 1822, *an understanding had been conveyed to his agent by our Deputy* that the distinction of armorial supporters would be conceded to the said Sir Coutts Trotter *on the ground of his being a British Baronet of Scotch descent*, and therefore prayed (although we have thought fit subsequently to restrict our grants of such armorial distinction as a matter of right to those whose claims may be founded upon ancient usage in their families, or those grounds of prescription that have of old been esteemed fit authority for any gentleman in Scotland below the dignity of a Peer of the realm to use armorial supporters, excepting always such cases wherein we may yet be pleased to exercise the peculiar privileges of our office) that we should grant our license and authority to him and the heirs of his body, his representatives in the Baronetcy,

[1] Lyon Register, ii. 152.

the following ensigns armorial"—including a horse and a lion as supporters.[1] Among many other questionable concessions, we may refer to the grant to Sir John Stewart Richardson of Pitfour, in the year 1837, of the supporters conferred (perhaps without sufficient reason) on Sir James Richardson of Bellmont in 1783; such grant being merely made in compliance with Sir John's own special application, and no ground being assigned for the concession.[2] In the year 1838, on the other hand, the escutcheon of Sir Thomas Burnet of Leys is intelligibly supported by a Highlander and a greyhound, in consequence of his being "the male representative of one of the minor Barons of Scotland prior to the year 1587."[3]

The right to supporters on the part of Chiefs of Clans is very much qualified in Mr. Tait's statement. The Court of Session has recently failed to determine what a *clan* is;[4] and probably a still more puzzling question might be proposed with reference to the definition of a Chief. Mr. Tait limits the privilege to "lawful heirs-male of Chiefs of tribes or clans which had attained power and extensive territories and numerous members at a distant period, or at least of tribes consisting of numerous families of some degree of rank and consideration." Any new claim on the ground of chieftainship is open to grave suspicion, and the difficulty of satisfactorily establishing it would undoubtedly be very great. If, moreover, a numerous "following" is an essential

[1] Lyon Register, iii. 47.

[2] *Ibid.* iv. 22.

[3] *Ibid.* iv. 33. See also the grant to Sir John Forbes of Craigievar in 1843, vol. iv. p. 63.

[4] M'Gillivray *v.* Souter and others, March 12, 1862.

requisite, we fear that several escutcheons in the recent volumes of the Register are very questionably accompanied by supporters. Thus, in the year 1854, Mr. Maconochie Wellwood is dignified with two Highlanders, attired *proper* (?), "as Chief of the name Maconochie or Maccondacy;"[1] and, as we have already stated, Mr. Ramsay L'Amy of Dunkenny is similarly honoured, in 1813, as the "Chief of the surname of L'Amy." In accordance with this liberal principle of unlimited concession, the bearer of some unknown, and perhaps assumed, surname might establish his chieftainship with a view to armorial supporters; and in addition to "The Macnab" and "The Mackintosh," every village in Scotland might boast of its own special "The." Accordingly, we might have "The Cruickshank," "The Littlejohn," "The Proudfout," or even that great hero, not unknown to poetical fame, "The Higginbottom."

> "Still o'er his head, while Fate he braved,
> His whizzing water-pipe he waved;
> 'Whitford and Mitford, ply your pumps,
> You, Clutterbuck, come, stir your stumps,
> Why are you in such doleful dumps?
> A fireman, and afraid of bumps!—
> What are they feared on? fools, 'od rot 'em!'
> Were the last words of *Higginbottom*."[2]

Let us express a hope that this illustrious ornament of the fire brigade was survived by an "heir-male of his body," to inherit the honours of the chieftainship!

It is satisfactory, however, to be able to state that

[1] Lyon Register, v. 60.

[2] "A Tale of Drury Lane."—*Rejected Addresses.*

the practice of indiscriminate concession of supporters is now unknown in the Lyon Office; and we are told that, not many years ago, a respectable landowner in the north of Scotland, who offered any amount of the current coin for the appendages in question, was indignantly informed by the representatives of the Lord Lyon, that supporters were not *sold* by his Lordship!

A somewhat singular procedure was the result of the decision of the Court of Session in the case of Cuninghame *v.* Cunyngham (1849), to which we shall afterwards have occasion pretty fully to allude. On the heir of line, Mr. Smith Cuninghame of Caprington, being found entitled to bear the disputed arms and supporters (two *white* horses), they were matriculated accordingly in the Lyon Register; while the Lord Lyon assigned the same arms, within a bordure for difference, to Sir William Hanmer Dick Cunyngham, the heir-male, along with a pair of *black* horses as supporters.[1]

We have already referred to the special grant of supporters to the distinguished family of Abbotsford, and probably a more graceful departure from strict heraldic practice could not be conceived. In the year 1820, we find an entry in the Register relative to the arms of "Walter Scott of Abbotsford;" and two years later his bearings are re-matriculated, as those of "Sir Walter," with supporters, besides an additional motto under the escutcheon ("Watch Weel"), and a full-sized, instead of a demi nymph for crest.[2] In the year 1848, an entry appears in the Register respecting the armorial insignia

[1] Lyon Register, v. 11, 15.

[2] *Ibid.* ii. 190.

of Walter Scott Lockhart-Scott (formerly Walter Scott Lockhart) of Abbotsford, son of Sir Walter's daughter Sophia Charlotte, required by deed of entail to bear the surname and arms of Scott of Abbotsford, as matriculated in 1822. The Record declares that these arms "are now conceded to him, along with the distinction of the supporters therewith borne, in respect of the special circumstances set forth in his application, and as being the sole heir of line and representative of his highly distinguished and gifted ancestor, Sir Walter Scott, Baronet, the first of Abbotsford, which distinction of supporters was further conceded by the Lord Lyon, in the exercise of his Lordship's official prerogative, as a mark of respect to the memory of the eminent deceased, and to perpetuate the same to the family arms."[1]

Finally, with reference to the practice of the Lyon Office in the matter of supporters, we may state that, in some of the recent matriculations of the arms of *Noblemen*, the escutcheon is illuminated without supporters, as in the case of Lord Glenelg, in 1835, and the Earl of Haddington, in 1859[2]—an illustration of the fact that, while some persons are guilty of heraldic sins of commission, by taking those things they ought not to have taken, others—perhaps for good and sufficient reasons—neglect to take those things to which they are fully entitled.

[1] Lyon Register, iv. 111. In 1853, the same arms, without the crest and supporters, are entered in the Register (v. 32) as those of (the now deceased) Mrs. Charlotte Harriet Jane Lockhart-Hope, afterwards Hope-Scott of Abbotsford, wife of James Robert Hope, now Hope-Scott, Barrister-at-law, and only surviving child of Sir Walter's daughter, Mrs. Sophia Charlotte Scott or Lockhart.

[2] *Ibid.* iv. 1, and vi. 15.

CHAPTER VII.

THE ABSTRACT QUESTION OF HERALDIC SUCCESSION—HEIR-MALE *v.* HEIR OF LINE.

The abstract question of heraldic succession, as involved in a competition between the heir-male and the heir of line through a female, is attended with very considerable difficulty, which will probably not be cleared away until a pure and unqualified case presents itself for the decision of the Supreme Court. Although, no doubt, the subject is incidentally noticed by the principal writers on Heraldry, it is hardly possible to deduce any distinct and positive conclusions from their scattered and imperfect statements; which in some cases are so unintelligible and contradictory, that, instead of removing, they rather tend to increase the perplexities of the most patient inquirer. If, again, we turn to the practice of the Lyon Office, it will be found, from the most cursory examination, that in many instances armorial matriculations have long been made independently of any very strict or definite principles.

We learn from Mr. Tait's Deposition,[1] that since his appointment to the office of Lyon-Depute "some instances have occurred where applications have been made

[1] See Chapter IV. p. 63.

by persons stating themselves to be heirs-male of families, the senior branches of which had become extinct in the male line, and which claims have been decided on by the deponent; and one case (he adds) is now depending where competition has occurred respecting the right of bearing the arms of a particular family. Being interrogated, whether any record of the proceedings in such cases is made and preserved in the Office; (he) depones that there is not, so far as he knows; but when a case is disposed of by the arms being granted, the grant is entered in the register of arms, and the relationship of the party is generally entered shortly in the grant. . . . Being (further) interrogated, according to what rules or ordinances cases respecting the grant of arms or competitions of claims between different parties are determined, and whether there is any record of proceedings or decisions in such matters; (he) depones, that he is not aware of any record of precedents in cases of this nature; that he has not, since his appointment, had occasion to decide in any formal or regular question of competition, but that the rules according to which he would form his opinion, and which he has observed in so far as he has been called upon to decide on claims presented, are those to be found in the Acts of the Scottish Parliament, 1592, cap. 125, and 1672, cap. 21, and the rules laid down by Sir George Mackenzie, Nisbet, and other writers on Heraldry." It unfortunately happens, however, as already stated, that it is by no means easy to extract any definite or inflexible rules from the works of our heraldic authorities respecting the subject under consideration, to

which their occasional allusions are very far from clear and satisfactory; and we also look in vain to the pages of Stair and Erskine, or any other of our institutional writers, for the slightest indication of a distinct opinion on the mysterious question.

It is universally acknowedged that the preference of males to females in heritable succession arose entirely from the peculiar spirit of the Feudal law, which differed in this and in other important respects from several of the earlier codes, more particularly those of Rome. Under the Feudal system, the property, or rather the possession of the soil, was bestowed for personal services in war, which women were incapable of performing, and accordingly, for a very long period, they were entirely excluded from succession. But this rigid principle gradually gave way under the general softening and improvement in manners, and very considerable changes were eventually effected, not only in the nature of military fiefs, but also by the introduction of other kinds of holdings; in consequence of which the "rights of women" ceased to be altogether overlooked long before the days of Mary Woolstancroft. The remains of their former condition, however, are still very apparent in the case of heritable succession, which does not open to them until after the failure of all the males in the same degree; while the privilege of primogeniture is only recognised among them to a limited extent. In consequence of these peculiarities, and in utter disregard of the various important changes which have occurred in our social system, many persons are too apt to be influenced by unfounded pre-

judices, and to adopt some of those notions and opinions which were most legitimately entertained in an earlier age. Without venturing to call in question the universal maxim of lawyers, which pronounces the lord of the soil to be the "*dignior persona*" in comparison with his gentler helpmate, it may probably be asserted, without much fear of contradiction, that there is less room than formerly for the civil distinction of sexes in these enlightened times, which are so essentially different in their characteristics from the bygone days of feudalism. Fully admitting the propriety of preferring the son to the daughter in the representation of the family, and in the succession to the heraldic honours, as well as the more substantial rights, it is assuredly a very different proposition to maintain that, where there happens to be no direct male issue, a daughter and her descendants are to be unceremoniously postponed to a nephew or an uncle, and indeed to any male collateral, however remote.

As we have already hinted, some ardent supporters of the preferable right of the heir-male appear to forget that the rules of succession observed under their favourite Feudal system, were for ages preceded by other rules of a very different character. If they will take the trouble to turn to the 27th chapter of the Book of Numbers, they will find that the general question of male and female succession was raised upwards of three thousand years ago, and decided, moreover, in favour of the heir of line! On that occasion, the parties were the daughters of Zelophehad, and the judge no other than Moses, the man who was "learned in all the wisdom of the Egyptians."

"Our father," said the former, "died in the wilderness, ... and had no sons. Why should the name of our father be done away from among his family, because he hath no son? Give unto us therefore a possession among the brethren of our father." With reverence be it stated, the plea was fully sustained to the effect that, failing a man's son, "his inheritance shall pass unto his daughter;" failing a daughter, it shall go to his brethren, whom failing, to his father's brethren; and if his father should have no brethren, the inheritance shall fall to "his kinsman that is next to him of his family." The following passages relative to the subject in question occur in Sir Thomas Craig's celebrated treatise on the Feudal Law (Lib. II. Dieg. 13, 14):—

"Naturalis enim equitas liberos ad successiones parentum vocat, licet aliquas restrictiones sive limitationes in jure Feudali et nostris moribus patiatur."

. . . "Haec ad verbum, in quo hoc notandum, ordinem successionis a Deo institutum, æquumque pronunciari, ut masculi in primo gradu fœminis præferantur, sic ut deficiente linea recta masculina, et non alias, fœminæ succederent, primoque gradui collateralium præponantur; collaterales vero, ut quisque gradu propior, sic ad successionem vocetur."

"Uxorius tamen Imperator vitium antiquitatis corrigens, eos *naturæ accusatores* vocat, qui aliam conditionem succedendi in maribus, aliam in fœminis facerent, quasi natura peccasset, quod non omnes masculos generaverit, ut, unde postea generarentur, non esset."

Sir Thomas then alludes to the demands of another

age, during the irruptions of the northern nations, when military service was introduced, and thus proceeds:—"Itaque ex jure Feudali, heredes masculi tantum succederent, et non fœminæ, etiam si arma tractare didicerint, ut antiquitus Amazones solebant, ut de Joanna Puella Aurelianensi, et quadam hodie Hibernica narratur."—Again: "Quid vero, si provisum sit, ut, deficientibus masculis, una fœmina succedat, et plures sint ejusdem gradus, quæ præferetur? Multi sunt qui primogenitam præferendam putant, quod et nos sequimur; licet sint, qui id vel arbitrio domini vel patris permittant; quidam forte dirimendum putant; alii, omnes debere succedere consentiunt; quod tamen est contra investituræ tenorem."

The same question, in connexion with the execution of a contemplated entail of the Auchinleck estate, formed the subject of an interesting correspondence between Dr. Johnson and his biographer, from which it would appear that, notwithstanding a decided opinion to the contrary by the great moralist (in which both Lord Hailes and Lord Auchinleck fully concurred), Boswell's own partiality for male succession "remained unshaken." In the month of February 1776, Dr. Johnson writes two long letters to "Bozzy," by whom all the difficulties of the case had been previously stated; and, after indicating his own views of the subject, strongly urges him to have a conference with Lord Hailes, as being "both a lawyer and a Christian." "Laws are formed," says the Doctor, "by the manners and exigencies of particular times, and it is but accidental that they last longer than their

causes : the limitation of feudal succession to the male arose from the obligation of the tenant to attend his chief in war. . . . . If, therefore, you ask by what right your father admits daughters to inheritance, ask yourself, first, by what right you require them to be excluded ? It appears, upon reflection, that your father excludes nobody ; he only admits nearer females to inherit before males more remote ; and the exclusion is purely consequential." Again, "It cannot but occur that 'Women have natural and equitable claims as well as men, and these claims are not to be capriciously or lightly superseded or infringed.' When fiefs implied military service, it is easily discerned why females could not inherit them ; but that reason is now at an end. As manners make laws, manners likewise repeal them."[1]

In the well-known Sutherland case (1771), it was clearly proved by the learned Lord Hailes that the Salic law of France and other kingdoms is not the rule in this country, and that by the common law of Scotland at least, every kind of succession, however originally masculine in its nature, has been open to heirs-general from a very early period. The same views are repeatedly expressed by Mr. Riddell, who, at the time of his death not many months ago, was pronounced by competent judges to be the most eminent legal antiquary in Europe.

[1] On another occasion, in allusion to Mrs. Thrale's wish to have a son, the Doctor says, "The desire of male heirs is not appendant only to feudal tenures. A son is almost necessary to the continuance of Thrale's fortune ; for what can misses do with a brewhouse ? Lands are fitter for daughters than trades."—*Johnson to Boswell*, Dec. 21, 1776.

"At present," he says, "there are in virtue of our various Peerage grants, a far larger class of heirs-female to dignities,[1] than of heirs-male, independently, as has been instructed, of the *constant* devolution of *all* our older (Peerages) to heirs-general, besides the later female descents, is at best but *rusticum* judicium *numero*, non *pondere*, the prior of which tests has been contemned, nay reprobated by lawyers, and cannot in the *abstract*, that is, as regards the mere quantity, be confided in; while the latter, the proper relevant test, evidently in this alternative, decisively applies in behalf of the heirs-female." Again, he remarks, "Patents, I need hardly observe, arbitrarily fixing the descent of an honour, though in numerous instances likewise in favour of heirs-female, are not a proper criterion. It is our succession that must here weigh, when left to common law. . . . . With respect to our Dukedoms alone (he continues), innumerable existing heirs-female take under the Ducal patents of Hamilton, Buccleuch, Queensberry, and *Montrose* (as was there at least intended), *far more* than male; and the Duke of Roxburgh likewise is an heir-female."[2]

Even in the case of the Salic law, to which we have incidentally referred, the precise principle of succession was at one time very keenly debated—its strictly masculine character being boldly challenged by one section of

[1] In his notice of the Order of the Baronets of Nova Scotia, Edmondson refers to the creation of a *female Baronet*, in the person of Dame (or Lady) Mary Bolles, in the year 1635.—*Complete Body of Heraldry*, vol. i.

[2] *Law and Practice in Scottish Peerages*, ii. 944. See also Appendix, No. vii. pp. 1006, *et seq.*

rival disputants. We particularly refer to the competition for the crown of France, in the fourteenth century, between Philip of Valois (afterwards Philip VI.) and Edward III. of England, the former being cousin-german by the male line to the deceased monarch Charles IV., while the latter was his sister's son. Philip pleaded that the Salic law excluded from the throne, not only daughters themselves but also their descendants, *whether male or female*, and that his opponent could not pretend to the crown, as representing only a female. Edward, on the other hand, did not ground his claim on the right of representation, but insisted on his nearness of blood, as the next male heir capable of succeeding. The decision, however, as is well known, was unfavourable to the English monarch, the subsequent prosecution of whose claims was the cause of long-continued warfare between the two kingdoms.

Under a Celtic sway, the Scottish law of succession appears to have been what is usually termed the law of Tanistry: a system which implied descent from a common ancestor, but which selected a man arrived at an age fit for war and council, in preference to the infant son or grandson of the preceding chief.[1] In such circumstances, therefore, it is obvious that the succession was regulated by principles of expediency, and not confined to any strict preference of the nearest male blood.

[1] *Scotland in the Middle Ages*, p. 176.

Mr. Innes gives several examples of this rule of succession among the Maormors of Moray, including the far-famed Thane Macbeth. See also p. 325 of the same volume relative to ancient female succession.

In the case of M'Gillivray, already referred to, an unsuccessful attempt was made by the pursuer (Neil John M'Gillivray of Dunnaglass) to exclude the heirs of line under a destination of certain lands, on the ground that they were not members of the clan Chattan. The defenders bore various surnames—Noble, Souter, M'Arthur, M'Intosh—and some of them had lately assumed the name of M'Gillivray, either from admiration of that appellation or in consequence of the condition in the destination, which limited the succession to the clan Chattan. The pursuer's plea was not founded on the preference of male blood. His opponents were all descended from females, who had renounced their allegiance to the clan by marrying persons not connected with it. The pursuer acknowledged that he also was descended from a female, but (in the words of the Lord President) "she had not committed that treason by marrying out of the clan!" She had married a M'Gillivray, and therefore her son, the pursuer, was in a position to claim the estate. Another of the learned Lords concluded an elaborate opinion with some pertinent remarks relative to the "common ancestor." "As regards descent," he observed, "which is the only other bond of connexion even suggested, it seems to me that to refer, as is done in the minute, to 'some remote ancestor from whom it was *supposed* the whole tribe was originally descended,' is little better for the purposes of a service of heirs, and is certainly more indefinite, than to refer to the remote ancestor from whom we all claim to be descended, and whom it is unnecessary to name. . . . . To say that

the whole clansmen are children of somebody unknown, is little better, for the present purpose, than to describe them, as Sir Walter Scott does elsewhere, as '*children of the mist!*'" As already indicated, the Court declined to pronounce decree of declarator in terms of the summons, and it was unanimously held that the destination contended for could not be recognised, as the term "clanship" was incapable of definition, and, as a recognised institution, was at an end, if not by Statute, at least by desuetude.

Independently of many other instances, the Regal succession both in England and Scotland has furnished numerous examples of heirs-female. On the one hand, we have Stephen, grandson of "The Conqueror," Henry II. first of the Plantagenets, the three first Sovereigns of the House of York, Henry VII. first of the Tudors, his grand-daughters Mary and Elizabeth, and James I. great-grandson of Margaret of England. Again, in Scotland, we have Duncan I., Margaret "Maiden of Norway," Baliol and Bruce, Robert II. first of the Stewarts, and his descendant, the unfortunate Mary. Finally, in our own peaceful times, we have the happiness to be governed by an illustrious "heir-female," in the person of our beloved Queen, Victoria, whom God long preserve! As Mr. Hannay observes, it is somewhat remarkable, "as illustrative of the mutability of fortune, that there is not a male descendant of one of the twenty-five English Barons appointed to enforce the observance of Magna Charta, early in the thirteenth century, and that only two of the names (Percy and De Roos) occur in the

present Upper House."[1] Besides these two, however, who are both through females (the latter being through a co-heiress), he informs us that there are several other descendants through females, including Lord Hereford, the Howards, Lord Saye and Sele, and the Duke of St. Albans.

Ordinary mortals would probably be inclined to conclude that, of the two parents, there can be less doubt respecting a man's mother than his father, which may perhaps have been the *rationale* of the old Pictish law of succession. But notwithstanding "Blackstone's admirable demonstration of the reasonableness of the legal succession," our friend "Bozzy" endeavours to justify his feudal preference of males by referring to the "opinion of some distinguished naturalists, that our species is transmitted through males only, the female being all along no more than a *nidus*, or nurse, as mother Earth is to plants of every sort; which notion seems to be confirmed by that text of Scripture, 'He was yet in the loins of his *father* when Melchisedec met him' (Heb. vii. 10); and consequently, that a man's grandson by a daughter, instead of being his *surest* descendant, as is vulgarly said, has, in reality, no connexion whatever with his blood"![2]

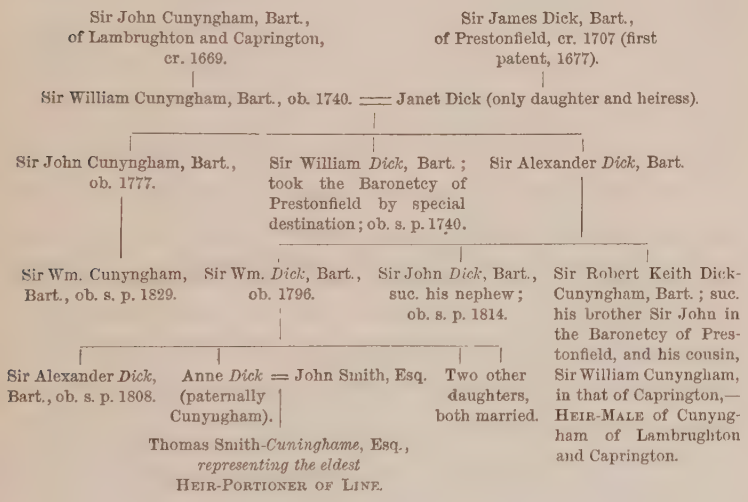
In the very latest heraldic case that occupied the attention of the Court of Session,[3] the abstract question of succession was incidentally and most ably argued;

[1] *Essays from Quarterly Review*, p. 173. See also some interesting observations on "Female Descents" by the same able writer in his "British Family Histories," *Ibid.* p. 61.

[2] Boswell's *Life of Johnson*; Croker's Edition, p. 472, *note* 3.

[3] Cuninghame *v.* Cunyngham, 13th June 1849; 11 D. 1139.

but, owing to a very remarkable specialty, it was not taken into consideration when judgment was pronounced. The parties in the action referred to were Sir Robert Dick Cunyngham of Prestonfield, Baronet, and his grand-nephew, Mr. Smith Cuninghame, younger of Caprington; the former being the *heir-male* and a collateral, while the latter was *heir of line*, through his mother, who was the eldest of three sisters, heirs-portioners, as shown in the pedigree subjoined :—


Sir John Cunyngham, Bart., of Lambrughton and Caprington, cr. 1669.
Sir James Dick, Bart., of Prestonfield, cr. 1707 (first patent, 1677).
Sir William Cunyngham, Bart., ob. 1740.
Janet Dick (only daughter and heiress).
Sir John Cunyngham, Bart., ob. 1777.
Sir William *Dick*, Bart.; took the Baronetcy of Prestonfield by special destination; ob. s. p. 1740.
Sir Alexander *Dick*, Bart.
Sir Wm. Cunyngham, Bart., ob. s. p. 1829.
Sir Wm. *Dick*, Bart., ob. 1796.
Sir John *Dick*, Bart., suc. his nephew; ob. s. p. 1814.
Sir Robert Keith Dick-Cunyngham, Bart.; suc. his brother Sir John in the Baronetcy of Prestonfield, and his cousin, Sir William Cunyngham, in that of Caprington,—Heir-Male of Cunyngham of Lambrughton and Caprington.
Sir Alexander *Dick*, Bart., ob. s. p. 1808.
Anne *Dick* (paternally Cunyngham).
John Smith, Esq.
Two other daughters, both married.
Thomas Smith-*Cuninghame*, Esq., *representing the eldest* Heir-Portioner of Line.

It had been expressly declared, in a clause of a private Act of Parliament, that "whereas the senior heir of line of Sir John Cunyngham, Baronet, of Lambrughton, and of Sir James Dick, Baronet, of Prestonfield" (the common roots and chiefs of the two families), "has succession to all their indivisible heritable rights, not carried from him by entail or settlement, and specially, has right to use

and bear the arms and supporters of his said ancestors—Be it therefore enacted, that the said rights and arms are hereby reserved entire to such senior heir of line; and that the said Sir Robert Keith Dick, being a younger branch of the said families, he and his heirs-male, in taking the name of Cunyngham, and arms of Cunyngham of Lambrughton, shall do so with the difference, or mark of cadence, in the arms applicable to such junior branch." Notwithstanding this enactment, the Lord Lyon assigned the family arms and supporters to the heir-male, "with the badge of Nova Scotia on a canton" as a mark of difference; but his judgment was advocated to the Court of Session, where the Judges of the First Division, confirming the interlocutor of the Lord Ordinary, unanimously *held*—"1*st*, That it is not competent for the Lord Lyon to inquire whether the heir of line or the heir-male was entitled to the heraldic honours of the family, that question being, in this case, decided by the Act of Parliament. 2*d*, That, under the Act of Parliament, the heir of line alone was entitled to supporters, and it was incompetent in the Lord Lyon to grant them to the heir-male. 3*d*, That 'the badge of Nova Scotia on a canton' was not a mark of cadence, and to assign it as the only difference in the coat-of arms, was not a sufficient compliance with the Statute." It was truly observed by Lord Mackenzie, that the clause in the Act already quoted was tantamount to a contract between the parties, who were probably entitled to enter into any armorial agreement, even although it should be considered to be "*contra bonos mores*" of the noble science of Heraldry.

The effect of such a stipulation upon any other parties than those immediately concerned is of course another matter, and may perhaps form a subject for discussion in some future generation. Speaking of private Acts of Parliament, Blackstone distinctly states that "a general saving is constantly added, at the close of the bill, of the right and interest of all persons whatsoever, except those whose consent is (so) given or purchased, and who are (therein) particularly named; though it hath been holden, that even if such saving be omitted, the Act shall bind none but the parties."[1]

But notwithstanding the express declaration of the private Act of Parliament, the opposing counsel in the case of Cuninghame could not resist the discussion of the abstract question of heraldic succession, which constitutes a very interesting portion of their learned pleadings. It is argued, on the one hand, by the heir of line, that no Salic law prevails in Scotland with regard to peerages or heraldic ensigns; that all honours, whether titular or armorial, are in that part of the kingdom indivisible heritable rights, and, as such, go to the eldest co-heiress; and that these rules of succession are amply confirmed both by our principal writers on Heraldry and by the practice of the Lyon Court. These propositions, on the other hand, are generally denied by the heir-male, who attaches a very different interpretation to some of the passages quoted by his adversary; and besides maintaining that, for the last four centuries, the tendency in Scotland has been in favour of male descent, endea-

[1] *Commentaries on the Law of England*, book ii. chap. xxi.

vours to establish that the cases adduced by the heir of line are to be regarded as exceptional.

In speculating upon this curious controversy, the question naturally arises, whether a plain and undifferenced coat-armorial descends to a man's heirs, according to the ordinary rules of heritable succession, or whether it happens to be characterized by any peculiarities, in consequence of which it can only be inherited by his heirs male. It is distinctly maintained by the heir-male, in the case of Cuninghame, not only that his opponent, as the son of one of three heirs-portioners and co-heiresses, cannot possibly succeed to the principal and undifferenced arms of his family, but that, even if he had happened to represent an *only* daughter, he would not have been entitled to exclude the heir-male from the heraldic honours of the common stock. In support of the first of these positions, he quotes the following passages from Mackenzie, Nisbet, and Guillim :—"Albeit, among sons," says the first of these writers, "the eldest excludes all the younger from the succession, and therefore differences are given for clearing the right of succession amongst brothers, yet sisters succeed equally, and are heirs-portioners, and so there is no use for these differences amongst them, seeing seniority infers no privilege."[1] Again, in the language of Nisbet, "all nations agree that sisters should carry no marks of difference, though they have brothers, and when they have no brothers and be heirs-portioners ; yea, although the estates, dominion, and dignity come to the eldest

[1] *Science of Heraldry*, chap. xxi.

sister."[1] Lastly, according to Guillim, where all the issue of the brethren happen to become extinct, and the daughters inherit the lands of their ancestor, "they may therewithal assume his coat-armour, and bear the same, by themselves and their heirs for ever. But betwixt those sisters be allowed no differences or badges of pedigrees. The reason whereof is, for that since by them the name of the house cannot be preserved, therefore they are admitted to the inheritance equally, and are adjudged but one heir, to all intents and purposes, in laws as well martial as civil, without any eminent prerogative, either of honour or possession, between elder and younger."[2]

Nisbet merely states the fact that sisters carry no marks of difference, not only when they have brothers or when they succeed as heirs-portioners, but even "although the estates, dominion, and dignity come to the eldest sister." If this assertion of the honest herald had been duly supported by proper authority, and could be received without any qualification, it would be quite unnecessary to investigate the point at issue; but it must be borne in mind that he makes the statement in the course of his observations on the use of marks of cadency among brothers and sisters, and others in the same degree, and evidently without the slightest reference to a competition between a lineal heir-female and a collateral heir-male. According to Sir George Mackenzie, however, there is no use for differences among sisters, "seeing seniority infers no

[1] *System of Heraldry*, vol. ii. part iii. p. 20.

[2] *Display of Heraldry*, section 6, p. 456.

privilege," while Guillim assigns, as a reason, that "the name of the house cannot be preserved" by them. It is hardly necessary to say that the latter *explanation* is by no means satisfactory, and entirely ignores the very frequent practice, to be afterwards noticed, by which an heiress, in a heraldic sense, confers her surname upon her husband. But the announcement of the learned Lord Advocate of King Charles II., that "seniority infers no privilege," is assuredly open to question; and so thinks the senior heir of line in the Cunninghame case, who confidently points to the pages of Lord Stair for a very different conclusion. "Heirs-portioners," says that celebrated authority, "are amongst heirs of line; for when more women or their issue succeed, failing males of that degree, it is by the course of law that they succeed; and because they succeed not *in solidum*, but in equal portions, they are called heirs-portioners; and though they succeed equally, yet rights indivisible fall to the eldest alone, without anything in lieu thereof to the rest: as 1. The dignity of Lord, Earl, etc.; 2. The principal mansion, being tower, fortalice, etc.; 3. Superiorities, etc."[1] But the question still remains behind, are the heraldic ensigns of a family to be regarded as rights indivisible? Does it follow, *à fortiori*, or even by analogy, that armorial, as well as titular, honours are to

[1] *Institutions of the Law of Scotland*, book iii. tit. 5, § 11.

It is well known that in England a different rule prevails with regard to titles of honour descendible to females, which do not go of right to the eldest daughter, where there are more than one, but remain in abeyance, subject to the determination of the sovereign, who may select any one of the co-heiresses to enjoy the peerage.

be included among these peculiar rights? In one point of view, heraldic ensigns do not resemble titles of honour, which can only be held by one individual, whereas armorial bearings may be indefinitely multiplied by the adoption of marks of difference. As a general rule, however, the principal arms, or arms in chief (in which, of course, supporters are included), can only be lawfully carried by the head of the family; and accordingly, in this sense they may be accurately enough described as indivisible rights. It is, no doubt, contrary to the usual practice of heraldry for daughters to use marks of difference—and during the lifetime of their father or brothers they are not supposed to make any pretension to the headship of the family—but the case under consideration implies the failure of heirs-male in the direct line, and a consequent competition between a lineal female and a collateral male.

Although the senior heir of line succeeds at common law to indivisible heritage, yet, contrary to the opinion of Erskine, heirship moveables appear to be divided among heirs-portioners.[1] It happens, however, that among the various articles included under the head of heirship moveables is the family *seal of arms*,[2] which is, of course, incapable of division, and accordingly would naturally fall to the lot of the eldest heir-portioner; and its possession would seem to constitute an argument in her favour for the inheritance of the

[1] Compare Erskine, Book iii. Tit. 8, § 13, with Bell's *Principles*, § 1906.

[2] See Erskine, Book iii. Tit. 8, § 18.

principal heraldic honours, in the case under consideration.[1]

The seals appended to the charter of foundation of the Collegiate Church of St. Bathans, in the year 1421, afford an interesting illustration of heraldic precedence being ceded to the eldest of the four co-heiresses of Gifford and Yester. Sir William Hay, ancestor of the Tweeddale family, married the eldest of these co-heiresses, and his seal of arms (already referred to), attached to the charter in question, exhibits his wife's ensigns quarterly, with his paternal arms "surtout;" while on the seals of the three other Barons who married the younger daughters—viz., Thomas Boyd of Kilmarnock, Eustace Maxwell of Teyling, and Dougal Macdougal of Mackerston—we find "nothing but their single paternal coats."[2] Two hundred years later, as mentioned by Nisbet, we have an example of the preference of the heir of line in the case of a well-known northern family. William Seton of Meldrum, having no issue by his wife, Anne, daughter of Crichton of Frendraught, entailed his estate, failing heirs of his

[1] Corresponding to our heirship moveables, there are certain personal chattels which, by the law of England, descend to the *heir*, and among these Blackstone enumerates "ancient family pictures, or a monument or tombstone in a church, or the coat-armour of his ancestor there hung up, with the pennons and other ensigns of honour suited to his degree."

In the year 1643, the General Assembly of the Church of Scotland passed an Act which "inhibites and discharges all persons, of whatsoever qualitie, to bury any deceased person within the body of the Kirk, where the people meet for hearing of the Word and administration of the Sacraments. And als inhibites them to hing *Pensils or Brods*, to affixe *Honours or Arms*, or to make any suchlike Monuments, to the honour or remembrance of any deceased person, upon walls or other places within the Kirk, where the publick worship of God is exercised, as said is."

[2] See Nisbet's *Essay on Armories*, p. 98.

own body, to his grand-nephew, Patrick Urquhart of Lethinty, eldest son of the "Tutor of Cromarty" by Elizabeth Seton, the entailer's niece; "esteeming it just and reasonable that, as the estate of Meldrum came to the name of Seton by a marriage with the heir-female of Meldrum of that Ilk, and that the course of succession continued settled in the heirs of line for a long time, it should in like manner descend to his eldest brother's daughter and her heirs, rather than go to an heir-male at a greater distance."[1]

In his "Reply" to the famous pamphlet entitled "Leicester's Commonwealth," in which the descent of the Dudleys was attacked, Sir Philip Sydney, as a "sister's son" of that distinguished House, indignantly repels the allegations, and quaintly vindicates the rights and interests of heirs-female. Speaking of his maternal grandfather, the Duke of Northumberland, he says,—"His mother was a right Grai, and a sole inheritor of [by] that Grai of the Hows of Warwick, which ever strove with the great Hows of Arundel, which should be the first Earl of England: he was lykewise so descended as that justily the Honour of the Hows remained chiefli upon him, *being the only heir to the eldest daughter;* and one of the heirs to the famous Beauchamp, Earl of Warwick, that was Regent of France; and although Richard Nevel, who married the youngest sister, becaws she was of the hole blood to him that was called Duke of Warwick, by a point in our Law carried away the Enheritance, and so also, I know not by what right, the

[1] *System of Heraldry*, vol. ii. Appendix, p. 125.

Tytle; yet *in Law of Heraldri and Descentes,* which doth not consider those Quiddities of our Law, *it is most certain that the Honour of the blood remained uppon him chiefli who came of the eldest Daughter.* And more undoubtedly it is to be said of the Hows of Barklei, which is affirmed to be descended lineally of a King of Denmark, but hath ever been one of the best Howses in England; and this Duke was the oneli Heir-general to that Hows, which the Hows of Barklei doth not deny, howsoever, as sometymes it fals out between Brothers, there be question for Land between them. Many other Howses might herein be mentioned, but I name these becaws England can boast of no nobler, and becaws all these Bloods so remained in him, that he, as Heir, might (if he had listed) have used their Armes and Name, as in old tyme they used in England, and do daili both in Spain, France, and Itali:—So that I think it would seeme as great News as if thei came from the Indies, that he who, by Right of Blood, and so accepted, was the awncientest Viscount of England; Heir in Blood and Armes to the first or second Earl of England; in Blood of Inheritance, a Grai, a Talbot, a Beauchamp, a Barklei, a Lislai (Lisle), should be doubted to be a Gentleman. But he will say these great Honors came to him by his Mother. For these, I do not deny they came so; and that *the Mother being an Heir hath been in all ages and contreis sufficient to nobilitat* is so manifest, that, even from the Roman Tyme to modern Tymes, *in such case. they mightt, if they listed, and so often did, use their Mother's Name;* and that Augustus Cæsar had both

Name and Empyre of Cæsar only by his Mother's Ryght, and so both Moderns." (That is, both name and arms.)

After noticing those armorial bearings which are merely *personal*, and which, accordingly, do not descend to a man's successors, Sir George Mackenzie adds, that "if successors be not secluded, then arms descend to his *heirs*, though they be not expressed. . . . But when they are given by the Prince to a man, or to his posterity, then his successors who are descended of him do carry the arms, and have right thereto, and that though they renounce to be heirs, because these are marks of their Prince's favour, and no lucrative parts of succession; and therefore, possible it is, that our nobility bear the titles and enjoy the honours of their predecessors, though they renounce to be heirs, and though these honours and titles were given at first to their predecessors and their heirs." The learned author then discusses the question regarding the right of women to carry arms, which he has no difficulty in deciding in the affirmative, and he refers to the common practice in Scotland (to be afterwards noticed) of entailing an estate on the eldest heir-female, whose husband is usually required to bear the name and arms of the disponer's family. In the course of his observations he says,—"Whether *agnati transversales*, such as nephews, etc., have right to carry the arms that are given by the Prince to their uncle and those of his family, may be doubted; and that they may, is concluded by the doctors, *nam agnati intelliguntur esse de familia*; but if the arms be

granted to a man and those descending of his body, they will thereby, or by any such express concession, be secluded."[1]

Without being able to deduce any positive conclusion from these rather indefinite statements, at any rate it is tolerably clear that they contain nothing very detrimental to the claim of the female heir of line in competition with the collateral heir-male. In the first passage quoted, the learned author uses the general term *heir*, without any qualification; and it is also important to notice, in connexion with some of our previous remarks, that he seems to place the succession to titular and armorial honours in the same category.

Two passages are quoted from Nisbet by the heir of line, in the case of Cuninghame, in support of his right to the principal arms of his family. The first of these occurs in the chapter devoted to the consideration of "Exterior Ornaments," and declares "that the right of using supporters is hereditary with us in the lineal heirs and representatives of families;" to which, however, the author adds, "but not to the younger sons of collaterals, unless they become representatives of the family."[2] But the heir-male does not admit the inference which is drawn from these words by his opponent, and positively denies that Nisbet, in writing them, had in view the question, whether heirs of line or heirs male were to be preferred in the succession to the family ensigns. The other passage is from that portion of the same author's "System"

[1] *Science of Heraldry*, chap. xxi.

[2] *System of Heraldry*, vol. ii. part iv. p. 33.

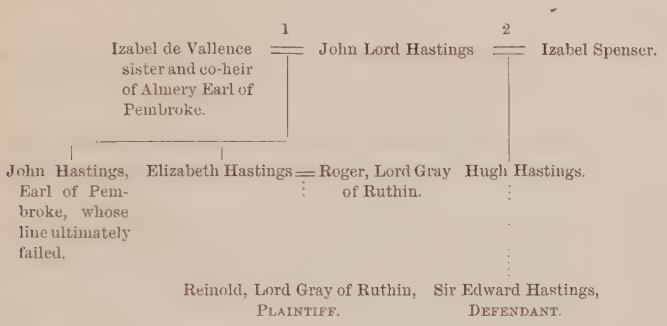
in which he treats of marks of cadency. "With us (he says), the plain lambel with three points is seldom assigned to younger brothers; but when the heirs-male of the eldest brother fail, and the inheritance falls to his daughters and their heirs, the younger brother and his issue may then use the plain lambel of three points, as the heir of expectancy."[1]

Neither of these passages, however, owing to their incidental and parenthetical character, can be considered very satisfactory or conclusive. Although in matters which are purely heraldic, and which relate to the proper combinations and marshalling of armorial bearings, no writer upon the "noble science" can be consulted with greater advantage than Nisbet, on the other hand, it must be admitted that his rather loose and inelegant language cannot always be very safely appealed to for the settlement of any nice or controverted point, especially if it happens to involve anything approaching to a question of law. But while the Scottish herald himself does not appear to make any very full or distinct statement respecting the subject under consideration, in his separate essay on Marks of Cadency he refers to an important passage in Dugdale, which assuredly seems to favour the argument of the female heir of line, and which it is advisable to introduce without mutilation or abridgement: —"A label," says the Garter King-of-Arms, "being much in use for the heir apparent (to wear as his difference during his father's life) was seldom removed to the second brother, but when the inheritance went

[1] *System of Heraldry*, vol. ii. part iii. p. 7.

unto the daughters of the elder brother; and then the second was permitted to bear the same for his difference, as being the heir-male of his family and as one that remained in expectancy; yet might not the second brother use to intrude himself into the absolute signs of his house (the inheritance being in his nieces or kinswomen) as appeared in the case between Gray of Ruthin and Hastings (protracted from the reign of Richard II. 1377, to that of Henry VI. 1422), which was this:— John Lord Hastings married to his first wife Izabel one of the sisters and heirs of Almery de Vallence, Earl of Pembroke, by whom he had issue John Hastings (after Earl of Pembroke), Elizabeth (married to Roger Lord Gray of Ruthin), and some other children which needs not be spoken of; for that, as I take it, all the lines of them failed before the extinguishing of the line of the said John Earl of Pembroke. After (such issue being had) the said Izabel Vallence died, and the said John Lord Hastings took to a second wife Izabel, the daughter of Hugh Spenser, by whom he had issue Hugh Hastings and Thomas, and then died, and left as heir John his son by his first wife (who was Earl of Pembroke, as I have said, erected by reason of his mother's inheritance) which John Earl of Pembroke married and had issue another Earl of Pembroke, who also married and had issue a third Earl of Pembroke; but in the end all the line of the said John Hastings (first Earl of Pembroke of that family) failing, there arose a question betwixt the heirs of Roger Gray and Elizabeth his wife, being sister (of the whole blood) and the heirs of Hugh Hastings brother

(of the half blood) to the said John Earl of Pembroke, for the inheritance of the Hastings.


1
2
Izabel de Vallence sister and co-heir of Almery Earl of Pembroke.
John Lord Hastings
Izabel Spenser.
John Hastings, Earl of Pembroke, whose line ultimately failed.
Elizabeth Hastings
Roger, Lord Gray of Ruthin.
Hugh Hastings.
Reinold, Lord Gray of Ruthin, PLAINTIFF.
Sir Edward Hastings, DEFENDANT.

But Gray recovering the same (by the law that saith *Possessio fratris de feodo simplici facit sororem esse heredem*) called the said Hastings also (having removed the difference of his mark for that he was then heir-male of that house) into the Court of Chivalry, and there having a judgment against him (*c.* 1408), the said Hastings was compelled to use a difference (which was a label of silver) upon his mark, a fair red sleeve of his lady's upon his golden vesture ;[1] since which the heirs of that younger family have used the said label even until this our age. So that you may see by this, that the law was then taken to be such, that such an heir-male as had not the inheritance of his ancestors should not be suffered to bear his mark without distinction ; for it should seem (by this) that the issue of them that had married the heir-general of any family (being by reason

[1] In heraldic language, *or*, a maunch *gules*.

"A lady's sleeve high sprighted Hastyngs bore."

(Drayton's *Baron's War*, i. 22.)

thereof possessed of the lands) had not only an interest in the arms, but might also forbid any man the bearing thereof."[1]

Here then it must be observed that the competition was not between a female heir of line and a collateral heir-male, but between the representatives of a sister of the full, and a brother of the half blood, the former of whom was preferred in the succession to the heraldic honours.[2] No doubt the possession of the ancestral acres seems to be taken into account by Dugdale as affecting the right to the "absolute signs of the house;"[3] but he also distinctly alludes to the important circumstance of the successful competitor having sprung from the marriage of the *heir-general*. It is almost superfluous to remark that a coat-armorial does not necessarily imply a corresponding family estate, which, if it ever existed at all, may have passed into the hands of a stranger; and therefore it is pretty clear that the decision of the question at issue must depend upon some principle of general application.

[1] *Ancient Usage of Arms*, p. 28.

[2] "The sister of the whole blood is preferred in descents before the brother of the half blood, because more strictly joyned to the brother of the whole blood (viz., by the father and mother) than the brother, though otherwise more worthy, of the half-blood."—(Sir M. Hale, *De Successionibus apud Anglos*, 1700.)

[3] Hereditary arms of families must not be confounded with *feudal ensigns*, which are annexed to certain lordships and estates, and carried by their possessors. Thus the Earls of Derby, and afterwards the Dukes of Athol, quartered the arms of Man, (three conjoined *legs* in armour) as lords of that island, while the Duke of Hamilton quarters the ensigns of the earldom of Arran, and the Duke of Argyll, those of the lordship of Lorn, being in both instances a lymphad or ancient galley. In like manner, the three garbs (or wheat-sheaves) of the earldom of Buchan have been carried by the families of Cumin, Stewart, Seton, Douglas, and Erskine, either as holding, or pretending to, that ancient dignity.

Accordingly, in the absence of any very distinct authority on either side, it does not appear unreasonable to argue from analogy, and to adopt the guidance of the common law of Scotland which regulates the succession to lands and dignities. Failing male issue, we have already seen that in the case of dignities and other indivisible rights, where there happens to be more than one daughter, the preference is given to the eldest, who also inherits the *præcipuum* of the estate in the shape of the castle or mansion-house, thus clearly establishing that her seniority does infer certain important privileges: and, again, where there is only one daughter, no division even of the lands is necessary, as she succeeds to the whole.

Leaving their ingenious inferences and deductions, the contending parties, in the case of Cuninghame, point to various actual instances of heraldic succession in corroboration of their respective claims. The heir of line enumerates the royal House of Stuart, the ducal families of Hamilton, Buccleuch, Queensberry, Roxburgh, and Sutherland, the earldoms of Rothes, Errol, Loudon, Dysart, Seafield, and Orkney, and the baronies of Saltoun, Gray, Sempill, Napier, Nairn, and Polwarth—a very respectable catalogue as all being represented by the female heir of line. He then turns to the Lyon Records for other similar examples, such as the Mowbrays of Barnbougal and the Napiers of Merchiston; and shows that the various male cadets of the latter family adopted proper heraldic differences, while the principal arms and supporters were carried by the heiress of line, who, in

1699, was married to Sir William Scott of Thirlstane. As more modern instances, he adduces the Farquharsons of Invercauld, the Clerk-Rattrays of Craighall, the L'Amys of Dunkenny, the Gibson-Craigs of Riccarton, the Heriots of Ramornie, and the Gibsons of Pentland, there being a baronetcy in the last of these families, which devolved upon the heir-male.

Against these formidable examples, the heir-male brings forward, in support of his view of the question, the cases of the *Marquis* of Queensberry, Anstruther of that Ilk, Macleod of Macleod, Munro of Foulis, and Macpherson of Cluny, in all of which the female heir of line appears to have been excluded from the principal heraldic honours. He also maintains that the instances cited by his opponent are exceptions to the general rule, and challenges him to prove that in any of them the heir-male of the family had ever claimed and been refused his ancestral ensigns. But, in noticing the case of Buccleuch, he supposes the existence of an heir-male at the time when the family coat-armorial was assumed by the heir of line, and goes on to say that "it was not expedient, nor perhaps quite safe, for the heir-male, with not a rood of land, to beard 'the bold Buccleuch' at the head of his border followers. Indeed, we may fairly admit that feudal arms must, in many cases, follow the other feudal inheritance, and that a person (though not the male heir) enjoying the family barony, bearing the noble title, leading the vassals in war, and dispensing justice among them in peace, was at first naturally looked upon as chief, and entitled to the chief insignia upon his

coat-armour; and in the course of a few generations, from father to son, the use of these established the right to use them. In most cases, the legally preferable heirs-male did not object to the expedient arrangement. He would have been a fool who, for so visionary an interest, would have severed the connexion that united all families of the name under the banner of the princely house of Hamilton, and made the Scotts so powerful when banded 'for Branxholme,' though in both cases the head of the family was not the heir-male of the name."[1] Again, in commenting upon the case of Invercauld, in the absence of all information as to the grounds of the claim, he says that he considers himself entitled to presume, not only that Mrs. Farquharson was at the head of a great undivided estate and ancient barony, and that no heir-male had opposed her petition, but also that she claimed the family arms, not as in right of descent, but *ex gratia* of the Lord Lyon, "and that the grant of supporters was made to her, rather in respect of her position, than precisely of her pedigree."[2]

There can be no doubt, moreover, that, at least in recent times, the opinions of the authorities of the Lyon Office are in favour of the heir-male. According to the supplementary deposition of Mr. David Clyne, *interim* Lyon-Clerk, dated 6th July 1821, "by the practice of the Office, a grant of arms is destined to the grantee and

[1] Printed Papers in case of Cuninghame, p. 44. *Session Cases*, vol. 440, No. 187.

[2] *Ibid.* p. 132. The subject of the Farquharson chieftainship has recently been very keenly discussed in the columns of the Edinburgh newspapers.

the heirs-male of his body, and so descends accordingly."[1] In like manner, in the *Note* of persons considered by Mr. Tait to be entitled to supporters, we find the privilege expressly confined to "lawful heirs-male of the bodies" of the lesser Barons, and of those private gentlemen whose right has been established by immemorial usage, and to "lawful heirs-male of chiefs of tribes and clans." In the same place, it is also stated that "no females (except peeresses in their own right) are entitled to supporters, as the representation of families is only in the male line." Accordingly, in the year 1829, although the father of the successful competitor in the case of Cuninghame was rather strangely allowed by the Lord Lyon to use the plain, undifferenced arms of both Cuninghame and Dick, in right of his wife, as heiress of line, his petition for supporters "was refused, as being founded on a misapprehension of the rules of heraldry, and the practice of the Lyon Court." In a note appended to that decision, the Lyon-Depute states, that in all cases where the distinction of supporters has been enjoyed, "the right to such distinction passes, *not to the heir of line*, but to the *nearest heir-male* of the family, even though a distant collateral, provided he can establish his descent; but, in the present case, Sir Robert Keith Dick is the *direct lineal heir-male* of the body of the first Baronet of Caprington, whereas Mrs. Smith Cuninghame is only the heir of line. A grant of supporters to her, therefore, or to her husband in her right, would be repugnant to all the laws and usages of Heraldry." But enough has

[1] *Report on the Lyon Court* (1822), p. 52.

probably been advanced to show that no such limited succession is expounded by our heraldic authorities, and that even in the course of the present century numerous instances of contradictory procedure have occurred in the practice of the Lyon Office.

Although the dispute in the case of Cuninghame was decided solely in accordance with the distinct injunction of a private Act of Parliament; and although the Court unanimously expressed its satisfaction that the point at issue did not require to be determined by "the common law of heraldry," more than one of the Judges thought proper to give an indication of their opinions on the abstract question of succession. In the long and able note appended to his interlocutor, the Lord Ordinary (Robertson) throws out various incidental observations which clearly show a pretty strong tendency towards the views of the heir of line. The "abstract question," says his Lordship, "of the legal succession to heraldic honours is argued by the advocator (the heir of line), in the concluding part of his case, with great force and much learning, and, so far as he is qualified to judge of such matters, the Lord Ordinary is inclined to go along with that argument." Again, in noticing the allegation of the respondent, "that the heir-male cannot be a younger branch, but must be the head of the house, and an elder branch to the senior heir of line," he remarks that "he does not think this established by any authorities on heraldry." At the conclusion of his note, however, his Lordship "begs it to be explicitly understood, that his judgment proceeds upon his view of the Statute; and

although he has ventured to express his impressions on the argument which has been adduced on the heraldic branch of the subject, he does so without any confidence, and without resting the grounds of his opinion upon these impressions."

In like manner, in the Inner House, while the Lord President (Boyle) and Lord Mackenzie positively decline to give the slightest intimation of their views on the abstract question of succession, the two other learned Lords indicate their opinions on the subject in terms that could hardly be mistaken. On the one hand, Lord Fullerton remarks that, "if we had been obliged to enter into the wider field, embracing the descent of heraldic honours at common law, if such an expression is allowable, I am by no means prepared to assent to the proposition so broadly laid down by the advocator, that in every case in which the holder of such honours dies, leaving a collateral heir-male, and a daughter or daughters his heirs of line, the honours will go to the daughters and their descendants, and that the heir-male will take them only under a brisure or mark of cadency. Speaking with all due diffidence on such a mystery, I must say that the cases put and referred to by the advocator, do not by any means bear out that proposition." On the other hand, Lord Jeffrey indicates what may be termed a middle view, suggesting that there is perhaps no inflexible rule in heraldry, the preference being given to the heir of line or the heir-male according to circumstances. "It certainly," says his Lordship, "is a novel and curious question, and I confess, that if it had arisen

in the abstract form, it would have very much embarrassed me. The respondent said that the plain common-sense view of the matter was in favour of the right of the heir-male. If I may be permitted to take a common-sense view, I should say that there is neither an inflexible rule nor a uniform practice in the matter. There may be cases where the heir of line will exclude the heir-male, and there may be cases where the converse will be held. In my opinion the common-sense rule is, that the chief armorial dignities should follow the more substantial rights and dignities of the family. If the heir-male succeed to the title and estates, I think it reasonable that he should also succeed to the armorial bearings of the head of the house. I would think it a very difficult proposition to establish that the heir of line, when denuded of everything else, was still entitled to retain the barren honours of heraldry. But I give no opinion upon that point."[1]

It is clear, therefore, from what has been stated, that the subject under discussion is attended with considerable difficulty, and affords abundant scope for argument and inference on both sides. If the accidental possession of a title or an estate, or any other special circumstance, is to be taken into account, it is manifest that almost every case of competition must be decided on its own peculiar grounds, and such, indeed, appears to have been the usual mode of settlement. If, again, we should be able

[1] The course followed by the Lord Lyon with reference to the matriculation of the arms of the rival claimants in the case under consideration, has been already stated, in connexion with the question of supporters.

to discover some principle of universal application, altogether independent of titles and estates, and which would not necessarily be affected by the destination of the one or the entail of the other, it is obvious that anomalies would frequently occur, whether it be determined to give the preference to the heir-male or to the female heir of line. Although we originally entertained a pretty strong opinion in favour of the heir-male, we must candidly acknowledge an increasing tendency to the opposite conclusion, as has already been indicated in the course of the preceding observations. The representation of an ancient family is regularly transmitted from father to son for many generations, but at length, through failure of direct male issue, a female becomes the heiress of line, while a remote collateral succeeds to the position of heir-male. Is it contrary to reason and common sense to prefer the former in the succession to the principal heraldic honours? If she remains unmarried, she of course retains her paternal surname and arms, and represents the family. If, however, she should become "*restita viro*," the adoption by her husband of her surname and arms ought to be an indispensable condition of the union, in order that both may be preserved in the persons of their descendants. Such a provision, as we shall afterwards have occasion to observe, is frequently introduced into entails and other deeds of settlement; but it is necessary to advert to those cases where the possession of an estate is not dependent upon any special condition, or where the heiress of line inherits the armorial ensigns of her family

unaccompanied by any substantial rights. Should her husband be a younger son, or should he belong to a widespread clan bearing an inconveniently common name, even where there is no estate in question, he will probably not hesitate to abandon his paternal arms and surname. If, on the other hand, he should happen to represent some family of distinction, his own surname and arms may be both retained and transmitted to his posterity along with those of his wife, in accordance with common heraldic practice. No doubt it would be easy to adduce an instance much less favourable to the claim of the heir of line. Instead of the heir-male being a remote collateral, he might, for example, be the paternal uncle of the heir of line; but in looking for a rule of universal application, we ought, of course, not to be influenced by the peculiar circumstances of certain special cases. As already indicated, however, by one of the learned Lords in his opinion on the case of Cuninghame, the *practice* in the matter in question has been far from uniform; and accordingly we are very much disposed to go along with his relative suggestion that "the chief armorial dignities should follow the more substantial rights and dignities of the family;" and that when the latter are enjoyed by the female heir of line, such heir should also be regarded as fairly entitled to claim the principal heraldic honours.

CHAPTER VIII.

THE SUCCESSION OF STRANGER HEIRS TO THE ARMORIAL HONOURS OF A FAMILY.

Various rules are laid down by heraldic writers regarding the use and marshalling of "Arms of Adoption." According to Sir John Ferne, "if the heir, a stranger, be of more noble blood and family than the adopter, he is then not obliged by the testament to disuse his own name and arms, but may quarter the arms of the disponer, if he pleases, after his own." Again, "if the heir be of inferior blood and dignity, he is obliged to leave his own name altogether, as also his proper arms, except he marshal them after the adopter or disponer's arms."[1] In such cases, however, it does not appear that the actual practice is affected by the comparative nobility of blood, but depends entirely upon the conditions which regulate the succession. Accordingly, we learn from Sir George Mackenzie that, in the opinion of the most learned antiquaries and lawyers, "when a person leaves his estate to another, upon condition that he should bear the disponer's name and arms, he who is to succeed is not by condition obliged to lay aside his own name and arms, but may quarter his own arms with those of the disponer,

[1] *Glory of Generositie*, p. 302.

except the disponer do, in the institution, prohibit the bearing of any arms beside his own. And the heir, in marshalling his own and the disponer's arms, may use what order he pleases, by giving the first quarter either to his own or to the disponer's, except the contrary be expressed in the institution."[1]

The injunction to use a particular surname and designation, with the relative arms, although not necessarily confined to them, is generally to be found in deeds of entail; and it is held to be an effectual condition, if duly fenced by irritant and resolutive clauses. "Sometimes the offspring of vanity," says Professor Bell, "it may be intended to prevent the accumulation of several entailed estates in one person, and the sinking of the name and family of the entailer."[2] Thus, a case is reported to have occurred towards the end of the seventeenth century, in which an entail of certain lands was made by a father to his three daughters *successivé* (on the narrative that "his estate of Stevenson had been very ancient in that name, albeit not great"), upon condition that, if the eldest did not marry one who should assume the name (and arms) of the family, the next should succeed. The eldest daughter having failed to do so, it was found that the next might serve herself heiress of entail, even although there was no irritant clause.[3]

The heir is sometimes required to bear the surname

[1] *Science of Heraldry*, chap. xxiv.

[2] *Principles of the Law of Scotland*, 4th edition, § 1725.

[3] Stevenson *v.* Stevenson, 26th July 1677; Mor. Dict. 15,475. See a somewhat similar provision, of a still more stringent character, in the marriage-contract of Hugh, fifth Earl of Eglinton, dated 1604.—Fraser's *Memorials of the Montgomeries*, i. 55.

and arms of the entailer *exclusive of any other*, but in practice it occasionally happens that this condition is not very strictly fulfilled. There can be no doubt, however, that if fenced by irritant and resolutive clauses, such condition will be effectual; and failure to comply with the injunction would render the heir in possession liable to challenge by the next person in the order of succession. In one of the earliest recorded entails—Craufurd of Auchinames, 1695[1]—we find an example of the exclusive condition in question. The deed provides "that the said haill airs male and of tailzie and provision *respectivé* above written, alsweel male as female, who shall succeed in the foresaid lands and estate, be vertue of the tailzie and substitution above mentioned, shall be holden, astricted, and oblidged, and be the acceptation hereof binds and obliges them, to bear, use, and carrie the name and arms of Craufurd of Auchinames, and *no other name or arms*, in all time coming. . . . Q^r^in if they failzie, the partie failzieor or contravenor, whether male or female, shall forfault, amitt, and tyne their right and succession of ye foresaid lands and estate." If the heir in possession, under such a condition, should succeed to another estate similarly entailed, he would probably require "to make his election," as he could not consistently take both of the estates. The possibility of such a contingency is distinctly contemplated in the Craighall entail, 1718,[2] which contains the following provision:—"Likeas it is hereby provided, that in case any of my heirs of tailzie shall happen to succeed to such ane other

[1] Register of Entails, vol. i. f. 173. [2] *Ibid.* vol. v. f. 248.

estate *as shall oblidge them to use and carry any other name and armes* than the said name and armes of Hope of Craighall, and that therefore they will not accept of the said name and armes of Hope of Craighall, in manner foresaid, within the space of one year and day after the decease of the next and immediat preceding heir of tailzie to whom they may succeed; that then and in that case, the said heirs so not accepting of the benefit of the present tailzie shall also forfeitt and amitt their right of succession."

The Lyon Register furnishes a very recent example of the exclusive condition under consideration. In the year 1857, we meet with an entry relative to the armorial ensigns of Miss Christina Guthrie of Mount, in the county of Ayr, only child and heir of tailzie of the late Alexander Guthrie of Mount, by Christina, daughter of John Marshall, coalmaster at Gilmerton, near Edinburgh; "which Alexander *was believed* to have been paternally descended from the Rev. John Guthrie, minister of Tarbolton prior to 1662, and who, *it is understood*, was paternally connected with the family of Guthrie of Guthrie, in the county of Forfar." In terms of the entail executed by the father of the patentee, the heirs of tailzie and the husbands of heirs-female are required "to assume and thereafter to use, bear, and constantly retain the surname, arms, and designation of Guthrie of Mount as their proper and *only* surname, arms, and designation;" and the following arms are illuminated in a lozenge, the usual provision being made for a crest and motto, in the event of heirs-male:—Quarterly, first and

fourth, *or*, a lion rampant, *gules*, armed and langued, *azure*, surmounted by a fess, *argent*, charged with a mount, between two edock leaves, *vert:* second and third, *azure*, three garbs, *or*. Three years afterwards, in consequence of his marriage to the heiress of Mount, we find the *same arms* entered as those of the Hon. Geoffrey Dominick Augustus Frederick *Guthrie* (formerly Browne) of Mount, afterwards Lord Oranmore — the crest and motto provided for his wife's heirs-male being embraced in the relative blazon, viz., a dexter hand, erect, holding a sword in bend, all proper, with the legend, "Sto pro veritate."[1] Again, about the same date (1860), we have an instance of the exclusive condition extending only to the arms—the assumed surname being *added* to the patronymic—in the case of the Rev. Michael Maxwell-*Heron* (formerly Michael Heron Maxwell) of Heron, in the Stewartry of Kirkcudbright, second surviving son of the deceased Sir John Shaw Heron Maxwell of Heron and Springkell, by the daughter and heiress of Patrick Heron of that Ilk; the relative blazon being as follows, but not embracing any portion of the Maxwell coat:—*Argent*, two lions rampant affronté, supporting betwixt their paws a rose, *gules*, stalked and leaved, *vert*.[2]

When the heir is not required to bear the name and arms of the entailer exclusive of any other, unless otherwise enjoined, he may either add or prefix the assumed surname to his own, the relative arms being disposed in his escutcheon according to his discretion. The various

[1] Lyon Register, v. 99, and vi. 24. [2] *Ibid.* vi. 30.

modes of procedure adopted in such cases will be mentioned in the following chapter relative to the assumption of names and arms. Sometimes, however, in the absence of such exclusive condition, special provision is made respecting the *position* of the new surname and relative arms. Thus, in the Blackhall entail, recorded in 1790,[1] it is "provided and declared that the said John Shaw Stewart and the whole other heirs above mentioned, and the husbands of the daughters or heirs-female, who shall happen to succeed to the lands, baronies, and others as aforesaid, shall always be obliged to assume, use, and bear the surname of Stewart, and the arms and designation of Stewart of Blackhall, as the *last* surname and arms they carry." Occasionally, express permission is granted to the heirs called to the succession to use more than one surname, with the relative coat-armorial, as in a recently recorded entail — Monro of Allan, 1862 — which, after enjoining the use and retention of the surname of Monro, and the arms and designation of Monro of Allan, contains the following proviso: — "Without prejudice to the using and retaining along therewith *any other surname, arms, and designation.*"

In many instances, it is well known that, in the absence of all condition and stipulation, the armorial bearings of an heiress are not only not adopted by her husband in lieu of his own, but are not even quartered with them; and, where she happens to be the last of an ancient family, it is certainly a matter of regret that its heraldic honours should be allowed to perish. It is, how-

[1] Register of Entails, vol. xxv. f. 334.

ever, a common practice in Scotland, according to Sir George Mackenzie, "not to quarter the heiress' coat, but to take a part of it into the husbands paternal shield. Thus, Hamilton of Innerwick (already referred to) did take the fess-checquy when he married Stuart, heiress of Bancrief; and this seems very proper, when the husband is not tied to bear the father in-law's arms by talzie or express paction."[1]

The same author further remarks, that "it is most ordinary in Scotland to entail estates by the eldest heir-female, she marrying one who shall bear the name and arms of the disponer's family; but whether the person who marries that *heretrix* or heiress, as the English speak, may lawfully carry the disponer's arms, according to the laws of Heraldry, wants not its scruple, seeing *arma gentilitia*, which are presumed still to be granted to a man and his heirs, *non transeunt ad extraneos*, else any man might give arms, as well as the Prince or heralds: Yet lawyers are very positive that their pactions are lawful, *et qui liberos non habit, potest in alium transferre suum feudum ea conditione, ut adoptatus nomen et arma et insignia ferat;* and that because arms are given, not only to reward the receiver's virtue, but to distinguish families, *et quia adoptatus transit in familiam et agnationem adoptantis.* Some lawyers do here distinguish betwixt him who is so assumed or adopted by one of his own predecessors or family (for these surely may bear the arms of the adopter), and those who were strangers before the adoption; and they con-

[1] *Science of Heraldry*, chap. xxiv.

clude that these cannot have a right to the arms: And this is asserted by Hoppingius to be the common opinion of the best lawyers; but I think it may be more justly distinguished, whether the disposition be made to a daughter, she marrying one who shall bear the name and arms, for in that case certainly the children may bear the arms, for she was heiress herself; but if lands were disponed to a mere stranger, not upon condition that he should marry a daughter, but that he should bear the name and arms, it may be in that case asserted, that the receiver of the disposition cannot bear the arms, for that was not in the disponer's power to bestow, except the Prince consent."[1]

A provision relative to the marriage of daughters to persons either actually bearing the name and arms of the disponer's family, or who shall be obliged to do so, is of frequent occurrence in Scottish entails. Thus, in the early entail of Gordon of Gordonstown, 1697,[2] it is provided that, in the event of the succession devolving upon any daughter, "if she shall not be married at the tyme, she shall be holden and oblidged to marry a gentleman of the surname of Gordon or of any other surname, who, and the aires male or female descending of her, shall assume and bear the surname of Gordon, and the atchievements and armoriall ensignes pertaining to and presently borne by me (the entailer) perpetually thereafter; and in case she be married the tyme of her succession to a husband of any other surname, then and immediately thereafter he and the aires male or female

[1] *Science of Heraldry*, chap. xxi. [2] Register of Entails, vol. ii. f. 163.

descending of that marriage, and succeeding to my estate be vertue of this present taillie, shall be holden and oblidged to assume and bear the surname of Gordon, in all tyme comeing, with my proper coat of armes." In the Duke of Argyll's entail, recorded in the year 1704,[1] the female heir, in terms of one of the conditions of her succession, is "holden and obliged" to marry "a *gentleman of quality* of the surname of Campbell, or any other surname suitable to her rank and degree; and the heirs of tailie above mentioned, as well male as female, and the said heirs female their husbands succeeding to the rights of the said lands and estates of Argyll shall be holden, obliged, and restricted to assume, take, and retain the surname of Campbell, and to bear, carry, and use the name and arms of the house and family of Argyll."

Every one must admit the propriety of recognising a very marked distinction between the two cases to which Sir George Mackenzie refers. In the one instance, the name and designation, as well as the arms of the disponer, are borne by a stranger, as the inevitable consequence of his marriage to the heiress of line; while in the other, the succession is altogether independent of such matrimonial alliance, and various opinions have accordingly been expressed upon the subject. We learn from Christyn that it was an ancient custom among certain nations, when a noble house became extinct, to bury the heraldic ensigns along with the last of the family; but the same writer informs us that the arms

[1] Register of Entails, vol. ix. f. 345.

may in such a case be assumed by a stranger, with the consent of the Sovereign, or where a member of the extinct family has obtained and exercised the power of conceding them "by adoption, contract of marriage, testament, or other valid disposition." "Quamvis fictionem inducat," says Hoppingius (speaking of adoption), "tamen quia fictio haec legis est, et quidem accommodata ad actum favorabilem, de quo ipsa lex disponere posset, dicendum videtur, hoc perinde haberi, ac si vere et per naturam, nomen et insignia ista adoptatus ferret."[1] "Such assumption of name and arms," in the words of another author, "may be regularly made by the adopted, when there is no heir in the family, nor any other that can pretend right to the name and arms: but if otherwise, the adopted cannot use them without the consent of all those in the family who have right to them."[2] Again, according to Sir John Ferne, while any man may give away his estate to a stranger, he cannot alienate his arms, the ensigns of his nobility, so long as any of his kindred are alive, yea, even if there be but a bastard remaining, capable of the King's legitimation.[3] Other authors are of opinion that no man can alienate his name and arms, unless they are accompanied by his estate, according to the maxim, "Quod multa cum universitate transeunt, quæ singulariter per se prohibentur."

[1] *De Jure Insignium*, par. 5.

[2] Chassanæus' *Catalogus Gloriæ Mundi*, part 1st.

[3] *Glory of Generositie*, p. 300. These and other passages are quoted by Nisbet in the course of his observations on "Arms of Adoption and Substitution."—*System of Heraldry*, vol. ii. part iii. p. 56. (See also p. 343 *supra*.)

The connexion between arms and broad acres is curiously illustrated by the alleged practice of bearing arms *adumbrated,* to which reference is made in the *Boke of St. Albans.* It is there stated that "certain nobuls and gentilmen in Englonde" bore only the outline or tracing of their armorial ensigns instead of the charges complete, because having lost the seigniory, they retained only the shadow of their former property and importance. Dallaway, however, regards such adumbration "rather as an imaginary distinction, than as implying that when the patrimonial estate was alienated, the possessor, in every instance, made at the same time a cession of his hereditary bearing."[1] Before the establishment of the English College of Heralds, arms were, no doubt, frequently transferred, not only by testamentary bequest, but also by voluntary cession during life.[2] Edmondson remarks that "a doctrine prevailed that the rightful possessor or proprietor being deemed to have, as it were, an absolute freehold in his coat-armour, as well as in his lands, had an undoubted right to alienate or transfer the property and inheritance of both the one and the other; and, in consequence of this doctrine, the proprietors of coat-armour did frequently, to the exclusion of their own heirs, by grants,

[1] *Heraldic Inquiries,* p. 111.

[2] Several curious examples of these grants, during the fourteenth century, will be found in Edmondson's *Complete Body of Heraldry,* i. 156. About the middle of the same century, Sir John Woodford purchased, from Sir John Nevil, the lands of Brentingly along with the arms belonging to the said manor—*sable,* three fleurs-de-lis *argent,* returned into three leopards' heads *gules*—and in the same coat-armour he appeared at "the getting of Caleys."—*Woodford Chartulary.* (*Gentleman's Magazine,* 1795, vol. lxv. p. 184.)

and that with a covenant of warrantry, convey, assign, and transfer not only such coat-armour of other families as happened to descend to them by right of inheritance as next heir, but the original and paternal coat-armour of their own family."[1] Again, according to Dallaway, "they might be assigned by a female, who was an heir-general, to her own husband, or to the husband of her daughter, who inherited her lands;"[2] and Camden gives us a specimen of one of these grants executed in the year 1436.[3] Such concessions, however, appear to have been sometimes disputed in the court of the Earl Marshal, as in the case between Sir Thomas Cowyn and Sir John Norwich, and that between John, Lord Lovel, and Thomas, Lord Morley.[4]

In the present day, it would be somewhat unreasonable to maintain that, when a man has children of his own, he is fully entitled to confer his ancestral escutcheon upon a perfect stranger; but, on the other hand, it implies a tolerably extreme opinion to adopt the views of Sir John Ferne, who would give the preference, not only to the remotest kinsman, but even to an illegitimate child. The difficulty which attends the power in question does not appear to be removed by the mere circumstance of consent on the part of "all those in the family who have right to the arms," as it may be very fairly urged that, being "marks of hereditary honour," no man can lawfully agree to the alienation of his paternal

[1] *Complete Body of Heraldry*, vol. i. p. 155.

[2] *Heraldic Inquiries*, p. 83.

[3] *Remaines*, p. 223.

[4] Anstis' *Register of the Garter*, vol. ii. pp. 260, 370.

ensigns, which he inherits by right of blood; and although he may despise, it does not follow that he is entitled to transfer them to a stranger. The Crown, however, still retains the power of making direct grants of arms (and supporters), and also of permitting persons to use the heraldic ensigns of other families, whose property they may inherit, or whose memory they may wish to preserve.

As in the case of the question between the heir-male and the heir of line, no distinct and unqualified judgment has ever been pronounced respecting the power of disponing family arms to a stranger. The nearest approach to a decision occurred in the case of Moir of Leckie, which occupied the attention of the Court of Session in the year 1794.[1] A few years previously, the laird of Leckie had executed an entail of his estate, in which it was declared "that the heirs of tailzie foresaid, succeeding in virtue hereof, shall be bound to use the name and title of Moir of Leckie, and that alone, exclusive of every other name and title; and to carry the arms of Moir of Leckie, without any addition, diminution, or alteration of any kind." After the action came into Court, it was discovered that no such arms were matriculated in the Lyon Office, and indeed it is extremely probable that they only existed in the imagination of the entailer. The pursuer, who was the heir of entail, was the heir, *alioqui successurus*, only in one-fourth of the estate, as representing one of four heirs-portioners. He appears to have been advised that, even when there were arms in

[1] Moir *v.* Graham, 5th Feb. 1794, Mor. 15537.

a family, it was extremely doubtful whether they might be lawfully assigned to heirs of entail, or whether they necessarily descended, *jure sanguinis*, to the entailer's heir of line; and he accordingly suggested that the condition respecting the armorial bearings "should be so modified by the Court as to make it consistent with the law of the land." On the other hand, it was contended by the defenders, who were the nearest substitutes in the deed, that it was a perfectly lawful condition in an entail to a stranger that he should bear the granter's arms; and in support of their allegation, they pointed to the statement of Sir George Mackenzie, which we have already quoted.[1] The same passage was also adduced by the pursuer, in the course of his pleadings, and there can be very little doubt that the doctrine which it inculcates is far more favourable to his view of the case than to that of the defenders. The Court "found it incumbent on the pursuer, and the other heirs of entail, to follow out the tailzier's appointment, in carrying the name and arms of Moir of Leckie; and for that purpose to obtain from the Lyon Office arms of that description, descendible to the heirs of entail of Leckie." It is to be observed, however, that this case was characterized by the remarkable peculiarity of the entailer solemnly disponing arms which did not happen to exist; and it is not very easy to see how any injury could thus be sustained by his heir of line. Moreover, the coat-armorial which was called into being by the authorities of the Lyon Office, in conformity with the judgment of the Supreme Court,

[1] *Supra*, p. 358.

was specially intended for the heirs of entail, whose right to use the same could surely not be challenged by the heir of line. But it is by no means certain that the same decision would have been pronounced had the entailer regularly inherited a coat of arms from his ancestors, the use of which by a stranger might perhaps be lawfully challenged as an invasion of the hereditary right and privilege of the representative of the family.

Although there appears to be no recorded armorial competition between an heir of line and an heir of entail, there can be no doubt that many instances have occurred where the legal heir has been passed over by an entail, in which the use of the relative surname and arms formed an essential condition in the succession to an estate. In all such cases, it necessarily follows that the identical coat of arms may be borne by two different families; and we have only to turn to a very recent page in the Lyon Register for an instance of this "heraldic anomaly." In the year 1847, we find an entry relative to the arms of Robert Scott Wellwood (formerly Robert Scott Moncrieff) of Garvock, from which it appears that, in terms of a deed of entail, he abandoned his paternal surname and arms, and assumed those of Wellwood—the bearings of Wellwood of Garvock being duly blazoned in the Register, viz., *argent*, an oak tree, acorned, growing out of a well in base, proper. *Crest*—the trunk of an oak, sprouting out branches, with the *motto*, "Reviresco." The entry immediately following relates to Andrew Clarke Wellwood (formerly Andrew Clarke) of Comrie Castle, eldest co-heir and representative of the family of

Garvock, who was authorized by royal license, dated 20th May 1847, to take and thenceforth use the surname of Wellwood in addition to and after that of Clarke, "in order to testify his grateful regard to the memory of his mother's family." To him also the principal Garvock arms, including crest and motto, are "assigned and confirmed by the Lord Lyon, the male issue of Robert Wellwood, his mother's paternal grandfather, having become extinct."[1] Here, therefore, we have two families bearing arms, in all respects identical; the one in virtue of a deed of entail, and the other in the capacity of heir-general.

When a man thinks proper to assign his armorial ensigns to a stranger, or a collateral relation, or even a younger son, and thus pass by his legal representative, surely the latter might with reason insist that the grantee could only use the arms with a clear and palpable mark of difference, so as to distinguish them from the principal bearings of the family. If it should be urged that such a course would not be in strict accordance with the conditions of the entail, it by no means follows that the heir of line would be satisfied with such an argument; under which circumstances it would appear that the only alternative on the part of the heir of entail would be to obtain the sanction of the Supreme Court (as suggested by the pursuer in the case of Moir), so to modify the terms of the deed as to make it consistent with the "common law of heraldry." Let us remember that the object in view is to avoid the

[1] Lyon Register, iv. 102-3.

obvious impropriety of two different families bearing the same armorial ensigns. It is tolerably certain that, generally speaking, the heir of entail will not raise any objection; and accordingly, should the lawful representative quietly submit to the irregularity, the pure principles of the "noble science" will, in all probability, be disregarded and transgressed. And such, no doubt, has long been the usual practice. In most cases, it is hardly to be expected that the legal heir, after having been deprived of the substantial interests of the family, will make any very serious exertion to vindicate his right to the "barren honours" of heraldry; but there appears to be no reason why the Lord Lyon should not take steps to prevent such irregularities by the due exercise of his undoubted powers.

CHAPTER IX.

THE ASSUMPTION AND CHANGE OF SURNAMES AND ARMS.

The origin of Surnames, like that of Armorial Bearings, has been variously accounted for. While some writers consider that traces of them are to be found among our Saxon ancestors, their first introduction into this country is generally assigned to a much later period. According to Mr. Lower, "The practice of making the second name stationary, and transmitting it to descendants, came gradually into *common* use during the eleventh and three following centuries."[1] The same author, however, agrees with other writers in thinking that surnames were not established on anything like their present footing till the time of the Reformation; and suggests that the introduction of parish registers may have materially contributed to their settlement. In some parts of the country, however, hereditary surnames were not in general use till a much later date; and even "at the present day, they can scarcely be said to be adopted amongst the lower classes in the wilder districts of Wales."[2]

[1] *Essays on English Surnames*, i. 31.

[2] *Sixteenth Annual Report of the Registrar-General of England*, 1856, p. xvii.

The most primitive form of a second name is unquestionably to be found in that numerous class of surnames which are derived from the Christian or fore-name of the father; while many others have been adopted from personal peculiarities, occupations and offices, locality, natural objects, and various other circumstances. The subject of family nomenclature is, in many respects, highly instructive. While an acquaintance with the origin of surnames cannot fail to throw much useful light on the customs and avocations of our ancestors, their local distribution, comparative prevalence, and almost inconceivable variety, are also very interesting subjects of inquiry. The Report already referred to contains some curious statistics compiled from the general indices to the Registers of Births, Deaths, and Marriages, illustrative of the probable number of surnames in England, and the estimated proportion of no fewer than fifty of those which most extensively prevail, amounting to nearly one-sixth of the entire population. As the result of a very elaborate investigation, it would appear that the total number of surnames in England and Wales is between thirty-five and forty thousand. The three names which stand at the top of the selected list are (1) Smith, (2) Jones, and (3) Williams; and taking the numbers as an index of the whole population, it would appear that, on an average, one person in every 28 would answer to one or other of these three surnames! The ubiquitous clan of the Smiths is calculated to amount to *upwards of a quarter of a million*, being represented by one in every 73 persons of the entire population.

The extraordinary number and variety of strange surnames which at present abound in England, forms a striking contrast to their comparative rarity on this side of the Tweed. How some of the English surnames now in use could ever have been assumed, it is not very easy to understand; unless, as has been conjectured, they were nicknames or *soubriquets*, which neither the first bearers nor their posterity were able to avoid. As examples of these strange patronymics—of which several hundreds might be adduced—we may mention the following:—Allbones, Baby, Churchyard, Deadman, Fudge, Gotobed, Littleproud, Puddle, Scamp, Slaughter, Startup, Swindler, Twentyman, and Wildblood!

Relatively to the inhabitants, the total number of surnames in Scotland, estimated by the English ratio, would be somewhere about six thousand; but we are strongly inclined to think that they are considerably under that figure. The most casual observer must have been struck with the remarkable predominance of certain names in particular localities, which the continued accession of Irish and other immigrants on the one hand, and the well-known wandering tendency of our own countrymen on the other, must, in the course of time, materially modify. Thus, we have Campbell, Cameron, Maclean, and Kennedy[1] in the west; Macdonald, Mackenzie, Robertson, and Stewart in the north; Gordon, Forbes,

[1] "'Twixt Wigtoune and the town o' Aire,
And laigh down by the cruives of Cree;
You shall not get a lodging there,
Except ye court wi' Kennedy."

Grant, and Ogilvy in the east; and Scott, Ker, Johnston, and Maxwell in the south. From a partial examination of the indices, applicable to the years 1856 and 1857, prepared at the Office of the Registrar-General for Scotland, it would appear that the seven most prevalent surnames in that country are Smith, Macdonald, Brown, Robertson, Campbell, Thomson, and Stewart. In the case of both years, Smith, as in England, occupies the highest place, while the relative position of the other six is slightly varied. The following Table exhibits, in addition to other particulars, the relative strength of these surnames in the indices for the year 1856, which contain about 201,000 names, in an estimated population of 3,033,000 :—

Surnames.	Number in the Indices.	Estimated Number in the entire Population.	Ratio.
Smith, ... (incl. 29 Smyths and 2 Smythes).	2,912	43,940	One in 69
Macdonald, ... (incl. 28 Macdonnells).	2,566	38,719	„ 78
Brown, ... (incl. 12 Brouns and 7 Brownes).	2,246	33,891	„ 89
Robertson, ... (*not* incl. Robinson, etc.)	2,191	33,061	„ 91
Campbell, ...	2,165	32,668	„ 92
Thomson, ... (incl. 135 Thompsons).	2,108	31,808	„ 95
Stewart, ... (incl. 181 Stuarts and 3 Steuarts).	2,047	30,838	„ 98
Total, . .	16,235	244,925	„ 12

Among other curious results furnished by the preceding Table, it would appear that the Smiths of Scotland

are proportionally even more numerous than their English namesakes—who, as already stated, are estimated to constitute only one in every 73 of the entire population —and that, on an average, one person in every 12 would answer to one or other of the seven specified surnames.

The motives and causes by which persons have been influenced in the assumption and change of surnames are very numerous. During the middle ages, it was a common practice for younger sons, instead of retaining their patronymic, to adopt the names of their estates or places of residence. Thus, a member of the English family of Botteville, from whom the Marquis of Bath is descended, adopted the name of John of the Inne, or *Thynne*, from the circumstance of his having resided at one of the Inns of Court. Camden, in his *Remaines*, illustrates the extent of this custom by an instance of a Cheshire family, in which no fewer than nine changes of surname took place in only three generations of male descendants, soon after the Conquest. The practice in question, as well as the adoption of new arms, is severely criticised in the following passage from the Rawlinson MSS., in the Bodleian Library, Oxford:—"This book is collected and made onlye to showe the alteracion and differences of armes in former tyme borne and used of the nobilitie of this realme: for proofe it was usuall that if a Baron or Peare of this realme had maryed with an enheretrix of a greater house than his owne, he or his sonne would leave their owne armes, and beare their wyfe or mother's as his cheefe coate; likewise a younger brother, havyng maryed with an enheretrix by whom he was advanced to greater

dignytie than his elder brother, dyd use his wyfe's coate armour rather than to beare his owne, with a difference : by which examples it is manyfeste that the erroure of these bearings of signes did not growe of ignorance of the officers of armes, by whom it was to be reformed, but onlye by choyse and selfewill of the nobyllitie themselfes, in pleasing their fantasies and obscuring the true signe of their progenitours ; this abuse and ignorance being joyned with another as common and as ill as the former, which was, if a man had three sonns, the one dwelling at the town's end, the other at the woode, and the thyrde at the park, they all tooke theyr surnames of their dwell inge, and left their aunciente surnames ; which errour hath overthrowen and brought into oblivion many auncient houses in this realme of England, that are neither knowen by their name or armes."[1]

It has sometimes happened that a great matrimonial alliance did not necessarily imply the change of both name and arms on the part of the husband. Thus, the heiress of the Percys, in the reign of Henry II. (1154-89), married Josceline de Louvaine, a son of the reigning monarch of Brabant, on condition of his changing *either* his name or arms. Relinquishing his surname, he retained his paternal ensigns, which have ever since been carried by the noble House of Percy. An early Scottish instance of a provision relative to the change of both name and arms occurs in the indenture, dated 1388, between Sir James of Douglas, Lord of Dalketh, and Sir John of Hamyltoune, Lord of Cadyow, relative to

[1] Quoted in Dallaway's *Heraldic Inquiries*, p. 128.

the contemplated marriage of Sir John to Jacoba of Douglas, Sir James's second daughter. The deed declares, *inter alia*, that "if, by any unfortunate chance, it happen the said Jacoba, by the death of her brothers or otherwise, to come in future times to the inheritance and lordship of the said Sir James her father, which God forbid, both the parties foresaid will and grant that a son, whether elder or younger, who may survive between the said Sir John and the said Jacoba, procreate or to be procreate lawfully, shall receive and enjoy that inheritance, assuming the surname of Douglas and the arms which the foresaid Sir James bears of hereditary right."[1] Two hundred years later (1584), we meet with a curious case of adoption, involving a change of surname, in a deed by John Charters in favour of Henry Lindsay, in which the former thus expresses himself:—"Seeing, by the will of God, I have na heir of mi bodie, I adopt ane noble youth, Henry Lindsay, brother-german of a powerful lord, David Earl of Crawford, as my adopted heir, and he taking the name of Chartris, I have given him the barony of Kengnore and mansion called Chartris House, in the county of Stirling."[2]

Prior to the Reformation, ordination was a regular occasion of change of surname, it being then the fashion, according to Holinshed, "to take awaie the father's surname (were it never so much worshipped or ancient) and give the son for it the name of the towne he was born in." Thus, in the case of William of Wykeham

[1] Innes' *Sketches of Early Scotch History*, p. 554.

[2] Kilsyth Charters, quoted in Laing's *Catalogue of Scottish Seals*, No. 174.

and William Waynflete, the patronymics of Longe and Barbour were entirely displaced by the clerical names under which they have always been known.

In more modern times, a change of name was frequently resorted to for the purpose of concealment, in consequence of the commission of political or criminal offences, desertion from the army or navy, family estrangement, and various other circumstances. The practice was not unusual during the English civil wars, when the Blounts of Buckinghamshire assumed the surname of Croke, and the Carringtons of Warwickshire that of Smith.[1] In like manner, during the contentions of the Houses of York and Lancaster, different branches of the same family were frequently attached to opposite parties, and were sometimes induced to adopt new arms, and occasionally new surnames, in lieu of their paternal ensigns and relative patronymics.[2] The ancestor of the Fraser-Tytlers of Belnain is said to have been a cadet of the family of Seton, who, having slain a gentleman of the name of Gray, in a quarrel at a hunting-match during the reign of James IV., fled to France and assumed the surname of Tytler, which his posterity retained. The armorial bearings of the family are considered to bear reference to these circumstances—the first and fourth quarters of the escutcheon being *gules*, between three crescents, *or* (the ensigns of the Setons), a lion's head, erased, *argent*, within a bordure of the second. *Crest*—the rays of the sun issuing from behind

[1] Fuller's *Worthies*, p. 51.

[2] See Dallaway's *Heraldic Inquiries*, p. 127.

a cloud, with the *motto*, "Occultus non extinctus."[1] Again, according to Nisbet, "they of the surname of Dickson, as descended of one Richard Keith, said to

be a son of the family of Keith Marischal, took their name from Richard (called in the south country *Dick*),

[1] Burke's *Landed Gentry*, p. 1451.

In his review of Burgon's *Memoir of Patrick Fraser Tytler*, Mr. Hannay questions the origin of the historian's family as stated in the text. The biographer, he says, "assumes the truth of the tradition, that the Tytlers descend from a brother of the George, third Lord Seton, who fell at Flodden. But it happens that we have particular information about the Setons of that period in the quaint old book, *The History of the House of Seytoun*, by Sir Richard Maitland of Lethington, whose mother was one of the family, and who wrote in the sixteenth century. He is very particular in telling whatever is *curious* about the House . . . and must have known so singular a circumstance as the one recorded by way of accounting for the change of name from Seton to Tytler, and if he had known it would have stated it, which he nowhere does. We feel sure, therefore, that, whatever was the origin of the tradition in question, it is not true in the form in which the Tytlers accept it."—*Essays from the Quarterly*, p. 369.

The author is informed by his friend, the present representative of the family of Woodhouselee, that it appears, from a very distinct and circumstantial memorandum, dated 1738, in the handwriting of his great-great-grandfather (Alexander Tytler), that his family claim descent, not from "George, third Lord Seton," as inferred by Mr. Hannay, but from his *chaplain*, who was a paternal relative. It further appears,

and to show themselves to be descended of Keith Earl Marischal, they carry the chief of Keith."[1] A more recent, as well as a more extended instance of a change of surname occurred the year after the fierce engagement between the Colquhouns and the Macgregors in Glenfruin, or the vale of Lamentation, in the neighbourhood of Lochlomond. In consequence of the cruelties alleged to have been committed by the clan Alpine on that occasion, the name of Macgregor was abolished by an Act of Privy Council, in 1604, under which all who bore the name were commanded, on pain of death, to adopt other surnames. Along with several subsequent injunctions of a similar character, the proscriptive Act was eventually repealed by the British Parliament, and the surnames of Campbell, Drummond, Graham, and Stewart, which had been assumed by compulsion, were gradually supplanted by the patronymic of the clan.

We have several instances on record of new names being assumed to commemorate remarkable exploits. The first of the surname of Turnbull is said to have been a powerful man named Ruel, or Rule, who *turned* a wild *bull* by the head when running violently against King Robert Bruce in Stirling Park, for which loyal service he obtained from that monarch the lands of Bedrule in Roxburghshire, along with the surname of

that the chaplain was the person referred to in the text who slew Gray in the hunting-match, and fled to France, whence two of his sons came to Scotland with Queen Mary in 1561, from one of whom (who settled in the neighbourhood of Kincardine O'Neil) the family of Woodhouselee are lineally descended.

[1] *System of Heraldry*, i. 74. See also Mackenzie's *Science of Heraldry*, chap. x.

Turnbull. In further commemoration of the event, the family of that name have ever since carried one or more bulls' heads in their armorial shield.[1] The surname of Stark is derived from a similar achievement performed at a later period of Scottish history. It appears that a member of the family of Muirhead was the means of saving King James IV. from an attack by a bull in the forest of Cumbernauld, when, on account of his strength and prowess, he received the surname of Stark (*i.e.*, potent). In order to indicate their descent from the Muirheads, his posterity bear, as arms, a chevron between three acorns in chief, for Muirhead, and a bull's head, erased, in base.[2]

We have already referred to the occasional assumption of arms in consequence of feudal service,[3] such bearings being usually termed "Arms of Patronage." "Arms of Assumption," however, properly so called, were ensigns adopted in commemoration of victory on the field of battle or in the lists. Thus if a man (whether a gentleman of coat-armour or not) take prisoner, in war, any nobleman or prince, he may lawfully assume his armorial bearings, either adding them to his own (if he have any), or using them alone; and such bearings will lawfully descend to his posterity. Accordingly, Sir Clement Clerke, Baronet, in the year 1661, bore *argent*, on a bend *gules*, between three pellets, as many swans proper; with the addition of a sinister canton *azure*, charged with a demi ram, mounting, *argent*, armed *or*, between two fleurs-de-lis, in chief, of the last, and debruised with a dexter baton

[1] See p. 101, *supra*. [2] Nisbet's *Heraldry*, i. 332-3. [3] *Supra*, p. 114.

silver; which were the arms of Louis d'Orleans, Duke of Longueville, whom Sir John Clerke took prisoner at the battle of Bonny (or the Spurs), in the year 1513.[1]

Not unfrequently, mere caprice and sometimes vanity are the motives which lead to a change of surname. A miserable notion of supposed gentility has induced many persons to exchange the names with which they came into the world for others of a more aristocratic reputation; and a still more common, and certainly less deliberate, practice has prevailed of endeavouring (in the language of Miss Mitford) "to turn the vulgar to the genteel by the change of a letter."[2] Examples of the former proceeding may be given in the substitution of Belcombe, Cuthbert, De Winton, and M'Alpine, for Bullock, Cuddy, Wilkins, and Halfpenny; while the names of Smythe, Tayleure, Broun, Fysshe, and a host of others, will at once suggest themselves, as instances of varied orthography. In strange contrast to these instances of pitiable finery are some of the curious transmutations which appear to be the result of intentional or accidental corruption. Thus, Veitch and Weir are the modern forms of the grand old Norman names De Vesci and De Vere. De Montealto and De Montefixo ultimately became Mowat and Muschet; while De Vaux (or De Vaus) and De Belassize degenerated into Vans and

[1] Oxford *Glossary of Heraldry*, p. 14.

[2] Camden ascribes the motive of such changes of surname to a desire "to mollify them ridiculously, lest their bearers should seem villified by them." "D'autres anoblissent leur surnom de quelque particule lorsqu'ils deviennent riches, à l'example du pauvre Simon dont parle Lucian, qui étant devenu riche, voulut qu'on le nommast Simonides pour amplifier son nom."—*Traité de l'Origine des Noms*, par De la Roque, p. 87.

Belshes. As a general rule, however, an *elongation* of the original surname is the result of the alteration, but it sometimes happens that individuals of a more practical turn of mind resort to the opposite process of amputation. Accordingly it appears that the great Napoleon not only cut off the letter *e*, as a useless termination, from his Christian name, but also dropped a *u* from his surname, substituting Napoleon Bonaparte for Napoleon*e* B*u*onaparte, thus depriving himself of two vowels as well as two syllables! In like manner, the real founder of the family of Peel (or Peele), the honest calico-printer of Blackburn, and grandfather of the eminent statesman, dropped the final *e* from his surname, "because it added nothing to the sound." A somewhat similar course was followed by the father of the present Chancellor of the Exchequer, whose surname was originally Gladstones, from which he dropped the final *s*, by royal license, in the year 1835. Aristotle mentions the mispronouncing of a man's name as one of the most disagreeable insults, and nobody is very fond of having his name mis-spelt. John Home, the poet, was peculiarly sensitive on this point. In Scotland, the surname is uniformly pronounced *Hume*, but the principal branch of the family has long used the orthography of Home. To that form the poet rigidly adhered, to the great entertainment of David, the historian, whose branch of the family (Ninewells) had for some or for no reason preferred the orthography of Hume. On one occasion, the philosopher proposed to settle the question by casting dice to ascertain which should adopt the other's mode of spelling.

"Nay," says John," this is a most extraordinary proposal indeed, Mr. Philosopher, for, if you lose, you take your own name, and if I lose, I take another man's name."[1] Mr. Hubback mentions several examples of the partial variation of names in consequence of unsettled orthography ;[2] but probably the most remarkable instances of such a practice are the various spellings of the surnames of Lindsay, Stirling, and Montgomerie, which appear to have respectively presented themselves in no fewer than 88, 64, and 44 different forms.[3] Even at the present day, the same person has occasionally been known, from time to time, to alter the spelling of his name, through ignorance, indifference, or caprice ; a practice, we need scarcely add, which is not only very silly and unmeaning, but one which, at some future period, may perhaps involve his descendants in considerable difficulty with regard to the proof of identity in cases of disputed succession. In the case of the Berkeley Peerage, it appeared that the Countess of Berkeley and her brother had adopted the name of Tudor in lieu of Cole, and the date of this change constituted a very important question in the proceedings before the House of Lords.[4]

As might naturally have been expected in a quarter unenviably distinguished for instability and want of sentiment, the changing of surnames is of very frequent

[1] Mackenzie's *Life and Works of John Home*, i. 164.

See also a codicil to David Hume's will, in an article on "Wills and Will-making" in a recent volume of the *Quarterly Review*, in which reference is made to the same subject.

[2] *Evidence of Succession*, p. 458.

[3] See *Lives of the Lindsays*, i. 413 ; *The Stirlings of Keir and their family papers*, p. 548 ; and *Memorials of the Montgomeries, Earls of Eglinton*, ii. 366.

[4] See *Minutes of Evidence*, 1811.

occurrence in the American States, where the custom of altering *Christian names*—which in the mother-country are regarded as immutable[1]—also largely prevails. In both cases the change is purely voluntary, and is effected by the payment of a small fee—an authenticated list of the metamorphoses being annually published by the local legislature. Many of the changes are simply ridiculous; but "the forwardness with which the commonest persons thrust themselves (by implication) into known and well-considered families, and endeavour to identify themselves with eminent individuals, is equally remarkable."[2] Thus, Allan Smith becomes Allan Izzard; Timothy Leary, Theodore Lyman; Sarah Robbins, Adelaide Austin; and Nancy Tarbox, Almeda Taber. Again, James Colbert is transformed into Colbert Mortimer; Curtis Squires into Pomeroy Montague; and Clara Frinck into Clarissa Wilson—while Horace Fish and his beloved partner Rhuhemah adopt the more euphonious name of Tremont. Hogg is converted into Howard; Death into Dickenson; Grunsel into Crowinshields; and Tinker into Buckingham! Mr. Wormwood asks permission to change his name for something more agreeable; "certain," as he quaintly says, "that no member of taste will oppose his request." Alexander Hamilton petitions for leave to change on the double ground of the inconvenient length of seven syllables, and of his inability "to support the dignity of a name so famous in history"! In this case, however, it appears that the applicant neither referred to

[1] See Hubback's *Evidence of Succession*, p. 450.

[2] *Household Words*, xiv. 433.

the conqueror of Darius nor to the historical association of his patronymic, but to a certain Secretary of the Treasury to Washington, whose fame is not very generally known on this side of the Atlantic.

Probably the most frequent occasion of change of name in modern times, is in connexion with testamentary injunctions and deeds of entail, to which we have already referred. With the view of perpetuating his name and family, the maker of an entail very frequently provides that the several persons called to the succession, including the husbands of heirs-female, shall be bound to assume his surname and the relative armorial ensigns. In some cases, as previously stated, the terms of the condition are such that the surname of the entailer must be borne to the exclusion of every other, while in others, it merely requires to be assumed, the heir having the option of either adding or prefixing it to his own name, unless the precise position is expressly provided for.

In the substitution or addition of surnames, particularly under the provisions of an entail, it frequently happens that only the heir assumes the new name, and in the case of a married heir-female, her husband also, who thus becomes, in the words of Sir George Mackenzie, "a child of the family;" while the children—excepting, perhaps, the heir-apparent—retain their patronymic without any alteration. The same author, however, remarks, that "though it be ordinary to make the eldest son only to bear the name, yet it seems very reasonable that even all the younger children should bear the name, if they get any patrimony out of the

family, unless they can prove they were provided *aliunde*."[1] It is certainly somewhat anomalous to find two different surnames in the same family, and in some cases the arrangement must be attended with certain practical inconveniences. But, on the other hand, as the change is not compulsory, there does not appear to be sufficient reason for its being made; and thus the obscuration of pedigree is entirely avoided, while, at the same time, the fame of an ancient house may be rescued from oblivion. This is particularly the case where the patronymic is entirely abandoned; but, of course, where it is retained along with the new surname, the objection is materially modified. Independently of the provisions in entails and other settlements, surnames are frequently assumed by persons succeeding to property, in compliance with the known wishes of the former possessor, or out of respect or regard to a relative or benefactor; and in the case of a marriage, the husband sometimes voluntarily assumes his wife's surname and arms, especially when the latter happens to be an heiress and the former a cadet. Instances sometimes occur which illustrate a combination of reverential and matrimonial motives. Thus, a certain landed gentleman in South Wales, the "only son of the late Rev. David Harries," assumed his *maternal* name (Davys) on his succession in 1832; and, fifteen years later, he made another change by the addition of his *wife's*, viz., Campbell—the assumption having been, apparently, quite voluntary on both occasions. Accordingly, by means of two separate processes, Mr. William

[1] *Miscellaneous Works*, ii. 490.

Harries was transformed into Mr. William Campbell-Davys.[1] We have another example of the adoption of the maternal surname—one of the two just mentioned—in the case of the gallant Lord Clyde, better known as Sir Colin Campbell. At the time of his installation in the House of Lords, public attention was called to the remarkable coincidence of so many distinguished individuals concerned in the ceremony bearing the name of Campbell, viz., the hero himself, the Bishop of Bangor, who read prayers, the Lord Chancellor, and the Duke of Argyll, by whom Lord Clyde was introduced. No doubt, in his original commission, which was procured for him by his maternal uncle, Major Campbell, he was described as "Colin Campbell," which surname he is said to have adopted with the consent of both of his parents; but in point of fact, as the Birth Register of Glasgow clearly proves, he was the "lawful son" of John *M'Liver* and Agnes Campbell. Whether such a purely voluntary practice can be justified is, of course, somewhat open to question, even in the case of those bridegrooms who rejoice in some of the world-wide appellations to which we have already referred.

In England, as well as in France and other continental nations, down to the seventeenth century, married women and widows not unfrequently retained their maiden names, generally, however, with an *alias;* and in certain parts of both Scotland and Wales, such persons still sign by their maiden names in legal documents, even although described in them by the surnames of their

[1] See Walford's *County Families*, p. 102.

lords. In Scottish deeds, they are almost always described by both the maiden and the marital surname; a course which ought invariably to be followed, as suggested by Mr. Hubback, where they do not conform to the practice adopted in England, of signing by the husband's name.[1] The style of the present Countess of Home is somewhat peculiar. In a recent instrument of disentail, she is described as "The Right Honourable Lucy Elizabeth *Douglas* of Douglas, Countess of Home," being the eldest daughter of the last Lord Montagu by the eldest daughter of Archibald, first Lord Douglas, and heir-general of the House of Douglas, in consequence of the decease, without issue, of all her maternal uncles.[2] It does not appear, however, that there is any obligation on the part of her husband, the Earl of Home, to abandon his paternal name and arms, as in the somewhat singular case of Guthrie of Mount, mentioned in the preceding chapter. In that instance, as already stated, in consequence of a special provision in a Scottish deed of entail, an Irish nobleman (Lord Oranmore) was obliged, on marrying the daughter of a commoner, to lay aside his patronymic and relative ensigns—thus finding himself in the anomalous position of bearing a title divorced from its proper surname.

According to Mr. Lower, the wife does not change her

[1] *Evidence of Succession*, p. 455.

[2] The first Lord Douglas—the surviving twin son of Sir John Stewart of Grandtully by Lady Jane Douglas, only daughter of James, second Marquis of Douglas was the successful litigant in the great "Douglas cause," which, according to Boswell, "shook the sacred security of birthright in Scotland to its foundation." The peerage was successively held by his three sons, and became extinct on the death of the fourth Baron in 1857.

name at marriage in Spain. The son uses the paternal or maternal surname, as he thinks proper; the choice generally falling upon that of the best family, in accordance with the proverb :—

> "El hijo de ruyn Padre
> Toma el appelido de la Madre." [1]

Spanish heralds are said to have adopted a threefold classification of *blood*, as we do in the case of ribbons and admirals. "Blood, simple blood, according to their views, is the muddy puddle which paints the vulgar cheek of the base-born plebeian. Red blood is the generous fluid which glows in the veins of the hidalgo; while blood, *par excellence*, blue blood, the 'sangre azul,' 'sangre su,' like the white blood of the green-tea nobility of China, is that aristocratic ichor which lurks beneath the pallid countenance of a quadrupled grandee. . . . . The thin fluid is never enriched with the calipash of the alderman, nor the decayed genealogical stock renewed by a golden graft from banker or loan-contractor." [2] Acting upon an opposite and more wholesome principle, a humorous Scottish peer, towards the end of last century, remarked, with reference to the intended marriage of one of his daughters to a "man of the people," who had been highly prosperous in trade, that "bluid and suet mak the best puddin'." We have somewhere read of the overturn of the carriage of a Russian nobleman in the streets of St. Petersburg, when both he and his coachman happened to bleed pretty profusely. Being

[1] *Essays on English Surnames*, ii. 56, *note*.
[2] *Quarterly Review*, lxii. 111.

determined to test the truth of the Spanish theory, the aristocrat was induced to transmit a sample of each liquid to an eminent chemist for comparative analysis; and, much to the disappointment and annoyance of the heralds, the result of the investigation was the establishment of the greatly superior quality of the coachman's vital fluid!

As already indicated, three different modes may be followed in the assumption of surnames, viz. :—

1. By the substitution of the new for the old name.
2. By prefixing
   and
3. By adding

   } the new name to the old.

Of fifty-seven Scottish Peers and Baronets whose families have either changed their patronymic or assumed additional surnames, twenty-four affix and twenty-three prefix the assumed name; while in the case of the remaining ten, the paternal surname is exchanged for another. Among our untitled aristocracy, the almost invariable practice is to *affix* the assumed name, examples of the entire change, or even of the prefix, being comparatively rare.

As in the position of the assumed surname, considerable variety exists in the mode of marshalling the relative arms. The most frequent practice appears to be to place the new surname last, and the new arms in the first and fourth quarters of the shield. By this means, the more important position is assigned to both the arms and the surname—the first and fourth quarters of the escutcheon taking heraldic precedence of the

second and third; while, somewhat paradoxically, the *last* in order of the surnames is always regarded as the principal, being that by which the bearer is generally best known and most frequently described. Thus, the Earl of Seafield affixes the surname of *Ogilvie* to his patronymic Grant, placing the arms of Ogilvie in the first and fourth, and those of Grant in the second and third quarters. The same course is followed by the Gibson-*Craigs* of Riccarton, Baronets, and the Maxtone-*Grahams* of Cultoquhey and Redgorton. Sometimes, however, when the last or principal place is assigned to the new surname, the new arms are disposed in the second and third quarters of the shield, thus following the *order* of the relative surname; as in the case of the Hay-*Drummonds*, Earls of Kinnoull, in whose escutcheon the paternal arms of Hay occupy the first and fourth, and those of Drummond the second and third quarters. The converse of this practice is very rarely to be met with, to wit, the new surname first, and the new arms in the first and fourth quarters; but it not unfrequently happens that while the new surname is placed first, the relative arms are marshalled in the second and third quarters. A very near approach to the former of these two courses is adopted by the *Leslie*-Melvilles, Earls of Leven and Melville, who prefix the assumed surname, and dispose the relative bearings in the first and *second* quarters of the shield, those of the patronymic being assigned to the third and fourth quarters. Of the latter course, we have examples in the case of the *Crichton*-Stuarts, Marquises of Bute, the *Murray* Threiplands of

Fingask, Baronets, and the *Campbell*-Swintons of Kimmerghame, who all prefix the assumed surname, while they place the relative arms in the second and third, and their paternal bearings in the first and fourth quarters of the escutcheon. A few instances occur where the arms pertaining to the assumed surname do not find a place in the family escutcheon; in which, however, on the other hand, the patronymic, although retained, is occasionally not represented. Thus, while Sir Graham *Graham*-Montgomery of Stanhope, Baronet, prefixes his maternal surname to his patronymic, only the ensigns of Montgomery appear in his shield of arms; and, on the other hand, in that of Sir Henry Ferguson-*Davie*, only the bearings of Davie, the assumed surname, are to be found. It ought to be borne in mind, moreover, that in addition to the arms pertaining to the surname or surnames of the bearer, the family shield in many instances, exhibits other ensigns carried in commemoration of alliances and other events, which did not necessitate the assumption of an additional surname. As examples, we may mention the escutcheon of the Bethunes (paternally Lindsays) of Kilconquhar, Baronets, which embraces the arms of Balfour as well as of Bethune, while those of Lindsay do not appear; and also the armorial coats of the Callanders of Craigforth and the Binning-Homes of Argaty, in the former of which we find the bearings of Campbell in addition to those of Callander, while in the latter the ensigns of Monro, Inglis, and other surnames are placed side by side with those of Binning and Home.

During the past year, public attention has been

called to the practice of changing surnames, which now threatens to become objectionably prevalent. In the month of June 1862, Mr. Roebuck brought the subject before the House of Commons, in connexion with the case of Mr. Jones of Clytha, who had assumed the surname of Herbert without royal license, and was therefore ignored under his new appellation by the Lord Lieutenant of Monmouthshire, the Lord Chamberlain, the Horse Guards, and other public functionaries. Mr. Roebuck laid it down as a rule of law, that every man in this country is entitled, *ex proprio motu*, to take what name he pleases; and in support of his statement, he cited various authorities, to most of which we shall afterwards refer. The Home Secretary (Sir George Grey) admitted, in reply, that a *bonâ fide* change of name, intended to be permanent, announced by public notice, and sanctioned by usage and lapse of time, is as valid as a change made under the authority of a license from the Crown. The following advertisement appeared in the *Times* of 21st February 1862, with reference to the case in question :—

"Clytha House, Usk, Monmouthshire.—*Notice.*—I, the undersigned William Herbert, lately called William Jones, of Clytha House, in the county of Monmouth, Esq., and my wife and children, have, on and from this day, taken and adopted my ancient family surname of Herbert, in lieu of the said surname of Jones; and we shall at all times hereafter, in all deeds and writings, and in all dealings and transactions, and on all occasions whatsoever, use such surname of Herbert as our only surname; and I have declared our intention to assume,

take, and adopt such surname by deed, which is enrolled, or forthwith will be enrolled, in the Court of Chancery.

Dated this 18th day of February 1862.

WILLIAM HERBERT, of Clytha."

It appears that the system of Chancery enrolment was first introduced about the year 1851, and since that date several such cases have occurred, in at least one of which the relative declaration embraced the voluntary assumption of new *arms* as well as a new surname.[1]

In some of the most recent announcements, the change extends to the Christian name, which, in England at least, as already stated, has hitherto been deemed immutable. Thus, Joshua Bug, "landlord of the Swan tavern," and Abraham Salaman, "gentleman," have transformed themselves, by advertisement, into Norfolk Howard and Alfred Phillips; and it would be superfluous to specify the periodical which recorded the former of these metamorphoses in the following humorous lines:—

"'Tis over! On Chancery's rolls set at last,
Is that awful deed-poll signed and sealed, tight and fast,
That wipes the foul BUG from my sign-board and head,
And plants there the proud NORFOLK HOWARD instead!
All the blood of the HOWARDS may chafe as it will,
At a BUG's bold intrusion—*Pure ichor* be still!
The law it allows me to do what I've done;
If a BUG was my father, a HOWARD's my son:
You may boil, you may bluster, nay, burst every vein,
But BUG's NORFOLK HOWARD, and such he'll remain,
Unless it should please him, rank's pride to rebuke,
To rise into SEYMOUR, and bully the Duke.

[1] See *Herald and Genealogist*, i. 17, *et seq.*

"At distinction of blood, though my shoulders I shrug,
Who knows *what* may flow in the veins of a Bug?
The Howards we sucked ere they'd breeches to wear,
And Seymours, while still in their woad, blue and bare,
More deep than your sires' lies our family stem;
They were glad to catch *us*, and *we* fed upon them!
'Tis, perhaps, sense of justice that makes me thus fain
To restore to *your* order the blood *mine* has ta'en.
So open your arms—*gules* and *azure* and *or*,
And find 'mong your quarterings room for one more;
For henceforth on the coat of the Howards must be,
'On a chief, a Bug rampant, langued proper,' for me,
Or a Bug crawling up an old family tree!"

As already indicated, it appears to be the established law of both England and Scotland that surnames may be assumed or changed at pleasure, independently of any royal, parliamentary, or judicial authority. In the case of Barlow *v.* Bateman, in 1730, the Master of the Rolls observed:—"I am satisfied the usage of passing Acts of Parliament for the taking upon one a surname is but modern; and that any one may take upon him what surname, and as many surnames, as he pleases, without an Act of Parliament."[1] Again, according to Lord Chancellor Eldon, "an Act of Parliament giving a new name, does not take away the former one. . . . In most Acts of Parliament for this purpose, there is a special proviso to prevent the loss of the former name. The King's license is nothing more than permission to take the name, and does not give it. A name, therefore, taken in that way, is a voluntary assumption."[2] In like

[1] Williams' *Reports*, iii. 64.
[2] Leigh *v.* Leigh, 1808; Vesey's *Reports*, xv. 92.

manner, in delivering judgment in the case of Luscombe *v.* Yates, in the year 1822, Chief-Justice Abbott observed, that "a name assumed by the voluntary act of a young man, at his outset into life, adopted by all who know him, and by which he is constantly called, becomes, for all purposes that occur to my mind, as much and effectually *his* name, as if he had obtained an Act of Parliament to confer it upon him."[1] In a still more recent case, Chief-Justice Tindal is reported to have said, that "there is no necessity for any application for a royal sign-manual to change the name. It is a mode which persons often have recourse to, because it gives a greater sanction to it, and makes it more notorious; but a man may, if he pleases, and if it is not for a fraudulent purpose, take a name, and work his way in the world with his new name as well as he can."[2]

The same principles appear to have been adopted in certain recent cases on this side of the Tweed. Thus, in the case of Alexander Kettle, a Writer to the Signet, who, in the year 1835, presented a petition to the Court of Session for permission to assume the surname of Young, the Lord President (Hope) stated it as his opinion that "there is no need of the authority of this Court to enable a man in Scotland to change his name;" and the application was accordingly withdrawn as unnecessary. The decision appears to have had no reference to the fact that the petitioner had previously obtained a royal license to change his surname, but proceeded on the

[1] Barnewall and Alderson's *Reports*, v. 344.

[2] Davies *v.* Lowndes, 1835; Bingham's *New Cases*, i. 618.

general ground that he was entitled, *ex proprio motu*, to assume any name he chose.[1] In apparent contradiction to this decision, is the later case of Harry Inglis, another Writer to the Signet, to whom authority was granted, in the year 1837, to assume the additional name of Maxwell.[2] It is not stated that the ground of sustaining the application was the want of a royal license, which, in Kettle's case, was regarded as unnecessary; and perhaps the prayer of the petition may have been granted without any reference to the earlier application. Be this as it may, in the still more recent case of Kinloch *v.* Lowrie,[3] the principle of Kettle's case was adopted by the Lord Ordinary (Cowan) and acquiesced in, to the effect that "a person may sue under a new name assumed by himself, even though assumed without any royal or judicial authority." It appears from the judgment that the advocator was born in Paisley in 1810, that he was married there in 1832, and that while resident in that quarter he was known and designed by the name of Callaghan, Kellachan, or Killochan; that he afterwards carried on business in Kilmarnock as John *Kelloch* or *Killoch*; and that after the year 1842 he was generally known in Glasgow by the name of John *Kinloch*, under which name he obtained a license as a tavern-keeper. In the note to his interlocutor, the Lord Ordinary seems to indicate an opinion that there is comparatively little difference between Killochan and Killoch,[4] or indeed

[1] *Session Cases*, xiii. 262.
[2] *Ibid.* xvi. 111.
[3] Dec. 13, 1853, *Ibid.* xvi. 197.
[4] According to the same view, Buchanan and Buchan might be regarded as synonymous.

between Killoch and Kinloch; and he refers to the learned argument at the debate as to the difference, in the Gaelic language, between *Kil* and *Kin*. He also refers to the judgment of the Court, delivered by Baron Parke, in the English case of Williams *v.* Bryant, 1839,[1] observing that "the practical rule solves all such niceties, viz., that by that name by which a party has been for years exclusively known to the public, and has transacted with them, he is entitled to sue, and is liable to be sued, in judicial proceedings; and no inconvenience to third parties, or departure from legal principle, can be seriously alleged to attend its recognition." A similar view appears to have been adopted in the High Court of Justiciary, in the case of John Finlayson, 10th January 1844,[2] when an objection to the citation of the panel under the name of Finlayson instead of Finlay was repelled, in respect that although unable to subscribe his name, he had passed under the former surname both at his judicial examination and in an application for bail, thus leading the authorities to believe that his real name was Finlayson. In support of the objection, one of the magistrates of Cromarty deponed that he knew Andrew Finlay, the father of the prisoner; that an extract from the Register of Baptisms produced, relative to a person named John Finlay, applied, in his belief, to the prisoner; and that he had known him from his birth, and always understood his name to be Finlay. In repelling the objection, Lord Mackenzie remarked that "the change which the panel had made upon his name, by the addi-

[1] Meeson and Welsby's *Reports*, v. 447. [2] Broun's *Justiciary Reports*, ii. 17.

tion of 'son,' was not uncommon in the Highlands." The only early analogous Scottish case appears to have occurred in the year 1749, viz., that of Alexander Lord Forbes of Pitsligo, who was attainted under the name and designation of Alexander, Lord Pitsligo.[1] He claimed his estate as not forfeited, in consequence of his not having been described by his true name and title. His plea was sustained by the Court of Session, but the judgment was reversed by the House of Lords, as it was proved that he was commonly known by the designation of Lord Pitsligo.

During last century, a change of surname was frequently effected by means of an Act of Parliament, but for some time past the more usual course has been by royal license. One of the most recent instances of statutory sanction that we have been able to discover is the Act 19 and 20 Vict. c. 5 (23d June 1856), "to authorize Sir Lionel Milborne Swinnerton, Baronet, and his issue, to assume and bear the surname of Pilkington jointly with the surnames of Milborne and Swinnerton, and to be called by the surnames of Milborne Swinnerton Pilkington." It appears from the preamble that a few months previously the said Sir Lionel, then Pilkington, in compliance with a proviso in a certain indenture of settlement, had obtained the royal license to take the names of Milborne and Swinnerton only, and to bear the relative ensigns quarterly with his family arms; and further, that in terms of the said indenture, having succeeded to a title of honour in the shape of a Baronetcy,

[1] Mor. Dict. 4155, voce *Falsa Demonstratio.*

he could only resume the relative surname (Pilkington) with the authority of Parliament.[1]

The practice of effecting a change of surname by royal license appears to be of considerable antiquity,[2] and there can be no doubt that, failing the more formidable machinery of an Act of Parliament, many important advantages may be derived from such a course of procedure. Thus, in the case of the Rokeby Barony, the record of royal licenses for the change of surnames and arms was produced from the Heralds' office and admitted in evidence, in order to account for the change of the claimant's name from Robinson to Montagu.[3] It is obvious that without some such record the difficulty of proving identity might be materially increased, and common sense appears to dictate the propriety of some formal

[1] A still more recent Act was passed in 1859 (22 Vict. c. 1) "to enable Charles Frederick Clifton, Esquire, and the Lady Edith Maud (daughter of the Marquis of Hastings) and their issue, to assume and bear the surnames of 'Abney Hastings' in lieu of the surname of 'Clifton,' and to bear the arms of Abney Hastings."

As a Scottish example of a *resumed* surname, we may mention the Macdonald-Lockharts of Lee and Carnwath. The first Baronet of that family was Alexander,—third and eldest surviving son of George Lockhart of Carnwath, and great-grandson of the celebrated Lord President of the Court of Session,—who succeeded to the estates of Lee and Carnwath, in 1802, on the death of his cousin Charles, Count Lockhart-Wishart, when he resumed his paternal surname of Lockhart, which he had exchanged for that of Macdonald, on his marriage to Elizabeth, daughter and heiress of John Macdonald of Largie, in 1762. The present Baronet carries the arms of Lockhart in the first and fourth, and those of Macdonald in the second and third quarters of his escutcheon.

In like manner, the present Earl of Haddington resumed his patronymic of Hamilton with the relative ensigns, which he now bears along with the surname and arms of Baillie, these having been exclusively assumed by his grandfather on inheriting Jerviswoode and Mellerstain, the extensive estates of *his* maternal grandfather.

[2] See *Archæologia*, xviii. 110.

[3] *Minutes of Evidence*, 1830, p. 14.

procedure being adopted on the occasion of a change of surname, with the view of establishing a fact of so much importance.[1] The following statement relative to the ordinary course of procedure in connexion with a change of name under royal license, is from an able article on the subject in question, in a recently established periodical devoted to the interests of Heraldry and Genealogy :[2]— "The person desirous to make the change presents a petition to the Secretary of State for the Home Department, who refers the same for consideration to the Kings of Arms, as the fittest authority to examine into the truth of its allegations. Those officers report upon the facts of the case, and the matter then rests with the Secretary of State. If it has been found that the party is a representative in blood of the family whose name he wishes to assume, or if he has married the heiress of such family, or if he has been desired to take the name by the will of one to whose estate he has succeeded, his request is granted, and the royal license is issued. Its publication in the *London Gazette* is optional, but it is generally inserted there, in accordance with a special form. But, if it appear that the applicant has asserted facts which are incapable of proof, or has alleged no better reason for his desire to get rid of his paternal name than mere whim or fancy, the Kings of Arms then report to that

[1] The concluding clause of an Act of Parliament authorizing a change of surname and arms is usually in the following terms :—" This Act shall not be a public Act, but shall be printed by the several printers to the Queen's most excellent Majesty duly authorized to print the Statutes of the United Kingdom, and a copy thereof so printed by any of them shall be admitted as *evidence* thereof by all judges, justices, and others."

[2] *The Herald and Genealogist*, edited by John Gough Nichols, i. 11.

effect, and the royal sign-manual is not permitted to be affixed to an act which would either sanction a falsehood, encourage a caprice, or cause annoyance to families whose historic or distinguished names might thus become the sport of all who are bold and unscrupulous enough to assume them." The amount of the fees payable in connexion with a change of name by royal license has been stated in a previous chapter.[1] According to a recent writer, however, the cost is "said to vary from £150 to £300."[2]

The only connexion of the Lyon Office with changes or assumptions of surnames appears to be in those cases where applications are made for relative armorial alterations. According to Professor Lorimer, "the Lord Lyon will not, as is popularly believed, grant authority to an individual to change his name; but, on the narrative *that he has already changed it*, he will grant him arms under his new name; and in the patent, or, if desired, in an extract from the record, he will certify the fact of the change.[3] This certificate (he continues) has been recognised both by the War Office and by the Admiralty, as identifying the bearer of the new name with the bearer of the old name, which is the only object of the Queen's letters patent; and officers of the army and navy have been permitted to change their names on the lists, and to draw their pay under their new denominations."[4]

[1] *Supra*, p. 173.

[2] Falconer's *Law of Surnames*, p. 74.

[3] This course was recently followed in the case of Mr. Maxtone-Graham of Cultoquhey and Redgorton.

[4] *Hand-Book of the Law of Scotland*, second Edition, p. 445.

Mr. Riddell refers to the great laxity and abuse which have latterly prevailed in Scotland with respect to the gratuitous assumption of both dignities and surnames, while the former practice in such matters appears to have been very strict and guarded, and must necessarily have checked undue appropriation. "Even an express Act of Parliament," he says, "seems to have been incumbent on a change of surname. Thus, on 10th May 1527, Robert Bertoun having married the heiress of Mowbray of Barnbougal, and it being one of the marriage articles that he should bear that surname, thereupon obtained a public enactment that he 'suld be callit Mowbray.' The form was solemn and precise; for the King and Parliament formally '*creatit* and *namit* Robert Bertoun to be of the surname of Mowbrayis, etc.; and he to be callit Mowbray commonly amangis all his liegis.'"[1] As other examples of statutory intervention, we may mention the Act 1581, c. 46, in terms of which William Maxwell, "apperand of Lammingtoune," assumed the surname and arms of Baillie, in lieu of his patronymic and relative ensigns, in order to fulfil certain conditions in a matrimonial contract; the Act 1663, c. 26, "for changing the name of Souter, of late used by some of the name of Johnstoun:" and the still more recent enactment in favour of William Pyet, his kinsmen and relatives, in the year 1707, authorizing them "to discharge the ignominious nickname of Pyet (*Anglicè*, magpie), and to assume and use their ancient surname of Graham, which," they set forth in the relative application, "they cannot do,

[1] *Scottish Peerage and Consistorial Law*, i. 293.

having trade both at home and abroad, without a publick act."[1]

It appears from the printed Acts of Sederunt, that applications to the Court of Session in connexion with the change or assumption of surnames have been frequently made during the last hundred years. Most of the petitioners appear to have been Advocates, Writers to the Signet, or Notaries Public, who, in consequence of relative provisions in entails and other deeds of settlement, were obliged either to change their names or adopt additional surnames; and the main object of the applications seems to have been to obtain the sanction of the Court to make the necessary alteration in their subscriptions, in all legal and judicial proceedings. Thus, in the years 1757 and 1789, John Semple and William Mow, Writers to the Signet, are authorized to adopt *Sempill* and *Molle*, as the more correct spelling of their respective surnames. Again, John Muir, Writer to the Signet and Notary-Public (1764), William Mitchell, formerly Writer and Notary-Public, "now holding an important office in the Forth and Clyde Navigation Company" (1774), and David Mathie, Writer in Glasgow and Notary-Public (1830), are allowed to change their respective patronymics to *Chalmer*, *Livingston*, and *Fogo*, in consequence of relative conditions in the dispositions of certain lands. For similar reasons, William-Charles Little of Libberton,

[1] Even names of *places* appear to have been formerly changed in Scotland under the authority of the Legislature. Thus, by 1489, cc. 23 and 24, the name of the "castell callit the Gloume" was changed to "Campbele," and that of Lord St. John's "house and place" altered from Halkerstoun to "The Temple." See also 1606, c. 63.

Advocate and Justice of the Peace (1793), David Anderson, Advocate (1814), James Gibson of Ingliston, Writer to the Signet (1823), and David Maitland, Advocate (1825), obtain permission to assume the surnames (and arms) of *Gilmour*, *Blair*, *Craig*, and *Mackgill* respectively, in addition to their paternal names and bearings.[1] The application of William Stirling, Advocate, in 1823, presents the peculiarity of not being consequent upon any documentary condition, having been merely prompted by his desire to assume the name, arms, and designation of *Graham* of Duntroon, as heir-general of that ancient family.

A few cases of a similar kind are reported to have recently occurred in the English Law Courts, the parties all being Attorneys (influenced by various motives), of which we may mention the following :—William Duggett *Ingledew*, 1849 ; Thomas James *Moses*, 1850 ; Josiah *Heaton* Dearden, 1850 ; John Matthews *Chamberlain*, 1852 ; and Edward *Bryan* Jones, 1853.[2] In the first two cases, the paternal names of Ingledew and Moses were dropped by the applicants ; while in the other three cases, Heaton, Chamberlain, and Bryan were respectively assumed, the first two being the maternal surnames of the parties. In the case of Moses, Mr. Justice Coleridge said that, in future applications of the same nature, the

[1] See also the cases of Small-*Keir* (1810), Bell-*Maclachlan* (1813), Young-*Herries* (1823), and Scales-*Cleland* (1831). Mr. Shand refers to four *unprinted* cases between 1841 and 1845, in one of which the party did not hold any public or official situation.—*Practice of the Court of Session*, i. 44.

[2] 1 Lowndes, Maxwell, and Pollock's *Reports*, 1 ; 19 *Law Journal*, Q. B., 345 ; 20 *Law Journal*, 80, Exchequer ; 22 *Law Journal*, Chancery, 22 ; 22 *Law Times*, 123.

affidavits ought to state very clearly that the party is not apprehensive of any proceedings being instituted against him by the name he bears on the roll.

Nearly two hundred years ago, the practice of changing names appears to have been regarded as highly objectionable in France. "Il est manifeste," says De la Roque, "que le changement de noms semble éteindre des races avant qu'elles le soiēt, et il en est arrivé des inconveniens tres-préjudiciables."[1] During the fourteenth and fifteenth centuries, such changes seem to have been effected in that country without any form or solemnity; but, owing to the consequent abuses, an ordinance was promulgated by King Henry II., in the year 1555, to the following effect:—"Que pour éviter la supposition des noms et des armes, d'offences sont faites à toutes personnes de changer leurs noms et leurs armes, sans avoir obtenu des Lettres de dispense et permission, à peine de mil livres d'amande, d'estre punis comme faussaires, et estre exauthorisez et privez de tout degré et privilege de Noblesse." Camden thus refers to the same subject:—"The inconvenience of change of names hath been discovered to be such in France, that it hath been propounded in the parliament at Dijon, that it should not be permitted but in these two respects: either when one should be made heire to any, with any especiall words to assume the name of the testator; or when any one should have donation surmounting a thousand crownes, upon the same condition."[2] Speaking of the ancient

[1] *Traité de l'Origine des Noms* (1681), p. 98.

[2] *Remaines concerning Britain*. Surnames, (1657,) p. 145.

practice in France of changing name and arms in consequence of prescribed conditions in deeds of settlement and marriage-contracts, De la Roque remarks :—"Il faut néanmoins que ces changemens, quoy que legitimes, soient fondez en Lettres enregistrées à la Chambre des Comptes, et publiées au Parlement pour rendre la chose solemnelle et publique."[1]

It need scarcely be stated that the practice of changing surnames has been frequently resorted to for fraudulent purposes; and such practice may perhaps become even more prevalent than heretofore, if the unwarrantable assumptions which are now of almost daily occurrence are not checked by the force of public opinion, if not by more summary means. Among the Romans, a fraudulent change of name was punishable by the *Lex Cornelia de falsis*; and in modern times, cases constantly occur which seem to call for the introduction of penal enactments. While it may be highly proper, in accordance with the principle adopted in the cases of Kinloch and Finlayson already referred to, to sue an impostor or indict a pickpocket commonly known as Richard Stanley, but whose real name is Richard Snooks, under the former of these two appellations; it does not appear to follow, as some people rather rashly conclude, that no impediment ought to be tolerated that would prevent any "free-born Briton" from calling himself Tomkins to-day and Plantagenet to-morrow, without the slightest shadow of a reason. Still less is it desirable, in these days of "comfortable convicts," that a ticket-of-leave gentleman

[1] *Traité*, par De la Roque, p. 186.

should be allowed, if not encouraged, to assume a new name, with a view to a safer return to his old courses; more especially when it appears, on good authority, that the reference of petitions for change of name, from the Home Secretary to the Kings-at-Arms, actually originated from the circumstance of those *patriotic* lieges who had "left their country for their country's good," adopting new names on their return from transportation, and endeavouring to get them countenanced by royal license.[1]

In business transactions, the system of "sham firms" is unfortunately by no means rarely encountered. A striking illustration of this dangerous chameleon was exhibited about two years ago in the Small Debt Court of the western metropolis. A lithographic firm in Glasgow sued Robert Revie, 28, Park House Lane, for goods supplied to him amounting to the value of three guineas. The defender admitted the receipt of the goods, but pleaded that the pursuers were bound to sue the firm of Milne and Reid, coachbuilders, 57, Robertson Street, and that he only ordered the goods for that firm. In answer to this allegation, and in illustration of the nuisances arising from sham firms, the pursuers averred that, during the previous eighteen months, the defender had been the representative of no fewer than *nine* different firms or names, embracing, on the one hand, the names of Robert Revie, Revie and Co., Milne and Reid, and Tait and Co.; and on the other, the trades of confectioner, commission agent, warehouse agent, coachbuilder, tailor, debt-collector, and messenger!

[1] See *Herald and Genealogist*, i. 27, *note*.

Perhaps some of our *constitutional* friends may allege that the "liberty of the subject" ought not to be invaded by any restrictive legislation relative to nominal metamorphoses. In that case, we venture to hope that their liberal enthusiasm may be ere long cooled down by a share of the practical experience of the pursuers in the case of Revie. Even in the land of "liberty, fraternity, and equality," we have seen that it has been found necessary to place legal difficulties in the way of arbitrary changes of name. So recently, indeed, as the year 1858, a law was enacted in France against the assumption of names of addition; and not many months ago the Imperial Court of Paris condemned a M. Hadot to a fine of 500 francs for having signed several public documents with his wife's name (D'Orville) added to his own, after being duly warned of the illegality of such procedure.[1]

In the words of a French writer (Salverte), "one's proper name is one's-self." The mere mention of a man's name immediately recalls the man himself to our remembrance, and presents to the mind's eye his personal appearance, moral attributes, or some remarkable event with which he is identified; and "this peculiar power," the same writer observes, "distinguishes the proper name from the common substantive." Goethe, in his *Autobiography*, likens a man's surname to his *skin*, next to which it is probably the most characteristic thing about him. It is no mere cloak, as that great philosopher remarks, to be assumed and abandoned at pleasure, indi-

[1] See *Herald and Genealogist*, i. 28.

cating, as it frequently does, his ethnology, his nationality, and perhaps even the county of his birth, which are all circumstances that, to a certain extent, determine his type of character and constitution. A few centuries ago, family nomenclature was variable and unsettled. In these later days, however, surnames are fixed and determined, and, in many instances, distinguished by historical associations. If a man will abandon his patronymic, it does not follow that he is entitled to appropriate an illustrious surname ready-made. He may invent a *new* name for his own special use, and do what he can to render it distinguished. But better still—unless indeed he has the misfortune to bear one of those unenviable names to which we have already referred—let him ennoble the plebeian appellation with which he came into the world by the vigorous display of any of the active or passive virtues, and its supposed vulgarity will speedily cease. In the language of the *Saturday Reviewer*,[1] "If you are yourselves illustrious, your names will be illustrious after you. We suppose that before the battle of the Nile the name of Nelson sounded no more august than the name of Jackson. And let a man stick to his father's real name. In these days, nobody but a most practised herald can tell who anybody is; so many people assume the name and arms of somebody else!"

The Registrar-General of England informs us that "the name of *John Jones* is a perpetual incognito in Wales, and being proclaimed at the cross of a market-town would indicate no one in particular."[2] A most

[1] 8th October 1859.

[2] *Sixteenth Annual Report*, p. xix.

unfortunate result, undoubtedly ; but the inconvenience arising from a countless host of real Joneses, Smiths, and Williamses, is surely a more desirable state of family nomenclature that what we seem to be rapidly approaching, viz., an equal host of *sham* Herberts, Howards, and Hamiltons. The Registrar-General plausibly suggests that "a partial remedy for this state of things would perhaps be found in the adoption of a more extended range of Christian names, if the Welsh people could be induced to overcome their unwillingness to depart from ancient customs, so far as to forego the use of the scriptural and other common names usually given to their children at baptism."[1]

A little work has recently appeared relative to the law of surnames,[2] which was written, as the author informs us in the preface, "with the sole object of defending a very respected neighbour from a series of published attacks, of a most censurable character." Had the writer confined himself to a mere enunciation of what he conceives the law to be, his essay might have proved both interesting and instructive. Unfortunately, however, a somewhat confused statement of the various decisions that have been pronounced on the subject, is unpleasantly and even offensively pervaded by a strong *animus*, not only against the supposed enemies of his "respected neighbour," but against the Lord Chancellor, the Home Secretary, and other public functionaries. The tone of the vindication will be gathered from the following pas-

[1] *Sixteenth Annual Report*, p. xix.

[2] *Surnames and the rules of Law affecting their change*, by Thomas Falconer, Esq.

sages :—"It is said that when a change of name is made by a gentleman, it is 'a graceful deference to the Crown to obtain a royal license.' The Crown confers no surnames, and the real meaning of these words is, that it has pleased certain unknown officials, the mere parasites of the royal ante-chamber, to tax easily plundered esquires, and to receive from them heavy fees through an expensive and unnecessary process of obtaining the sign-manual." Again, he observes that "the Heralds' College pretend an interest in this question. . . . . It is but just, however, to the keepers of the great Heraldic Menagerie on Bennet's Hill to say, that the larger scale of fees payable on a change of name by royal license is not devoured by red lions, or true blue dragons, or, in fact, received by the College officials."

In the second part of his essay, Mr. Falconer somewhat prominently alludes to the armorial branch of the subject, in connexion with the intimation that "when Mr. Jones has obtained the royal license to assume and bear the name and *arms* of Herbert, the Lord Chancellor will direct the necessary alteration in the Commission" of the Peace. It would appear that Mr. Jones alleges that his family has always borne the *Herbert* arms. "Accidentally," according to Mr. Falconer, "the families of Llanarth and Clytha (at present represented by a nephew and uncle) do now bear the arms of a family of Herbert, and their right to bear them has been allowed by the Heralds' Office, and is entered by heraldic authority on the record of their pedigree in that Office." Either,

therefore, these Joneses are Herberts in disguise (in which case the resumption of their patronymic could not be very reasonably objected to), or they have been irregularly bearing, "for many generations, among the very foremost of the gentlemen of Monmouthshire," the armorial ensigns of another family.

The law relative to the assumption of surnames has, on several occasions, been the subject of judicial consideration, in connexion with the interpretation of certain clauses in the English Marriage Acts, 26 Geo. II. c. 33, and 4 Geo. IV. c. 76. The object of the former of these statutes was the prevention of clandestine marriages, and it required that a written notice of "the *true* Christian and surnames of the parties" should be delivered to the minister, with a view to publication of banns. The 22d section of the later Act provides that, "if any person shall knowingly and wilfully intermarry without due proclamation of banns, the marriages of such persons shall be null and void." Some very curious cases have occurred under these apparently simple enactments. The grand result of the relative decisions appears to be that, where either of the married parties is ignorant of the misdescription in the banns, the marriage cannot be assailed; in other words, that both of them must be cognizant of the undue publication before the marriage is celebrated, to render it invalid.[1] On more than one occasion, it appears to have been held that the true name is the name by which a party is known, and not

[1] See case of Bower Wood, *Saturday Review*, 3d December 1859, and earlier cases cited in Hubback's *Evidence of Succession*, pp. 277-84.

necessarily his original name.[1] Difficulties sometimes occur with reference to the determination of the true names of illegitimate children. Lord Stowell remarked that "they have no proper surname but what they acquire by repute, though it is a well-known practice, which obtains in many instances, to give them the surname of the mother, whose children they certainly are, whoever be their father."[2]

The hardships resulting from the judicial decisions in such cases as that of Wood are fortunately unknown in Scotland, where the law of marriage has been so sweepingly assailed. Shortly after Lord Elcho's Registration Act came into operation (in 1855), a case occurred in one of the large commercial towns of Renfrewshire which illustrated the superiority, in at least one respect, of the Scottish law of marriage. Robert Bryan and Bridget Toy were duly proclaimed with a view to matrimony. On the day of the intended ceremony, the fickle Bridget changed her mind, but the bridegroom being bent on an immediate change of state, proposed to Isabella Gray, who not only accepted his hand and heart, but agreed to personate the inconstant first-love, and to sign (by mark) under her name in the statutory marriage schedule. The ceremony was accordingly performed, and the schedule transmitted to the Registrar for the purpose of being recorded. Some months afterwards, the true facts of the case were discovered by the

[1] Rex *v.* Billingshurst, 1814, 3 Maule and Selwyn's *Reports*, 250; Rex *v.* Burton-upon-Trent, 1815, *Ibid.* 537; Cope *v.* Burt. 1 *Phil.* 224; and Rex *v.* Tibshelf, 1830, Barnewall and Adolphus' *Reports*, 190.

[2] See cases cited in Hubback's *Evidence of Succession*, p. 280, *note* 10.

parties resolving to be regularly proclaimed and re-married under their real names. The case was, of course, brought under the notice of the authorities; the parties were both sentenced to imprisonment; and ultimately the original entry of marriage was cancelled by the Sheriff's authority, and the subsequent ceremony duly registered. In point of law, however, although not "regularly" married in consequence of the want of due proclamation, the parties became man and wife after the performance of the *first* ceremony, in accordance with the maxim :—*Nil facit error nominis cum de corpore vel personâ constat.*[1] In England, however, there can be no doubt that a marriage celebrated under similar circumstances might have been judicially declared null and void.

We are informed by the advocates of free trade in surnames that the only conditions that must be fulfilled to legalize the adoption of a new name are publicity, good faith, and the absence of every improper motive. Under these circumstances, we should like to know, in the event of a man with a large family of children assuming a surname, to which certain important educational or other advantages are attached by the liberality of some "pious founder," whether he would be enabled, by his mere voluntary act, to secure for his children a share of the advantages in question, in common with

[1] A similar case occurred in Fife, in the year 1857, on which occasion the false name was assumed by the *bridegroom*. Instead of cancelling the original entry in the Register, the Sheriff granted warrant for its *correction* in terms of the Statute—the relative insertion in the "Register of Corrected Entries" embracing a distinct statement of all the facts of the case.

other children having a right to bear the same surname by virtue of their birth, and who might perhaps be able to connect themselves with the pedigree of the testator. We happen to know of a case in the north of Scotland, where it was seriously contemplated to make a change of surname with the avowed object of enjoying some such testamentary benefit; but if it was actually carried into execution, it is to be hoped that the administrators of the bequest considered it to be their duty to ignore the barefaced claim. Mr. Innes mentions the case of an Irish gentleman of the name of Morris, living in Paris, who assumed the surname of De Montmorenci, and persuaded his relatives to follow his example; "but the descendants of the *premier baron Chrêtien* called a council of the family, and published an Act enumerating all those whom they recognised as genuine, in which the Irish cousins were not included."[1] In the English case of Barlow to which we have already referred, the House of Lords, reversing the decision of the Master of the Rolls, held that a voluntary change of name from Bateman to Barlow on the part of the husband did not bring the wife within the scope of her kinsman's bequest, and that her marriage to such a person was not a fulfilment of the condition of the will. She was not required to marry any person connected by blood with the testator, and was free to choose from the world at large any person bearing the name of Barlow, *i.e.*, bearing it either by birth, or by virtue of an Act of Parliament, by which it appears to be universally admitted that a name can be

[1] *Scottish Surnames*, p. 41.

actually conferred.[1] Again, in the case of Leigh, to which we have also already referred, the assumption of a name by royal license, even by the first and nearest of kin of the devisor of a certain estate, was held to be insufficient to satisfy the limitation in the deed, which required that the heir should be a person bearing the family name of Leigh from his agnation to the testator. In all such cases, it is manifest that the intention is to benefit those who bear a particular name *by derivation from their ancestors.*

Various suggestions have been made respecting the propriety of some change in the law with regard to the use of surnames. Some writers have recommended the enactment of greater *restrictions* than at present appear to exist, with the view of checking the increasing mania of assuming new names. Even if duly fortified by fines and penalties, it is to be feared that any such legislative interference, while perhaps needlessly creating a new class of offences, would prove practically inoperative. Others, again, are of opinion that greater *facilities* should be afforded, and propose the establishment of a special register, upon easier terms than at present, either at the College of Arms,[2] or at the Office of the Registrar-General. Extending the suggestion embraced in the latter alternative, Mr. Falconer considers that "it should be enough to register the change in *any* office for the registration of births, deaths, and marriages, and a small fee only should be payable. There should be no com-

[1] 4 Brown, *Par. Cases*, 194.

[2] We have already mentioned the existing practice of the Lyon Office with reference to changes of name.

pulsion to make this registration. Whatever name may suggest a sentiment of pleasure or happiness, or which may promote the interest of any person, he should remain as free to adopt as the law at all times has left open to him."[1] Of course, the chief objection to the system of royal licenses is their expense, which we are told forms an insuperable barrier in the case of every poor man who is ashamed of his father's name;[2] but it may be gravely doubted whether this is a sufficient argument to encourage the modern propensity to arbitrary changes of surname. In addition to advertisement in the public prints, Mr. Thomas Wetherell suggests a "Declaration and Deed Poll," somewhat similar to that adopted by Mr. Jones of Clytha, to be executed, stamped, and enrolled in Chancery, of which the total cost would not exceed £2, 16s.[3] Such enrolment is, of course, nothing more than a personal declaration, and the document is merely recorded "for safe keeping." What effect may follow such procedure, will necessarily depend not, of course, on the enrolment, but on the amount of success which the party meets with, in his attempts, by advertisement or otherwise, to persuade the public to acknowledge him under his new name. It is alleged that, even under the free trade system, there are sufficient obstacles of a personal kind to check the tendency in question; such as force of

[1] *Law of Surnames*, p. 46.

[2] Such persons appear entirely to ignore the well-known conclusion of Shakspeare's Juliet in her address to her lover:—

"What's in a name? That which we call a Rose,
By any other name would smell as sweet."

[3] See *Law Times*, 7th June 1862, and Falconer's *Law of Surnames*, pp. 41-43.

habit, fear of ridicule, and, even in the case of the bearers of the most offensive patronymics, a certain degree of family pride, which becomes a positive virtue when contrasted with the *mauvaise honte* to which we have referred. The advocates of voluntary assumption triumphantly point to the statement of Lord Chief-Justice Coke, that "a man cannot have two names of baptism (*i.e.*, a name assumed in addition to his original baptismal name), as he may have divers surnames;"[1] but the assertion that a man *may* have divers surnames does not necessarily imply that the great English jurist went the length of holding that the voluntary and capricious assumption of surnames is absolute and unlimited. The anonymous writer whom we have already quoted comes to the conclusion that no useful change of the law can at present be made. "We are of opinion," he observes, "that it would be unwise to extend further encouragement to such changes; as it might tend to supply *unscrupulous* men with readier means of defrauding others, and afford to *silly* men greater opportunities for sowing the seeds of future confusion and inconvenience to themselves and their posterity."[2]

[1] 1 *Institute*, p. 3.

[2] *Herald and Genealogist*, i. 27.

[A judgment on the law of proper names has been very recently pronounced by the Hon. Judge Daly, in the Court of Common Pleas at New York, which will appear in a future page of the *Herald and Genealogist*.]

CHAPTER X.

THE ROYAL ARMS IN SCOTLAND.

EVEN those matter-of-fact individuals who profess to look upon the "noble science" as an unintelligible remnant of mediæval barbarism, must be tolerably familiar with the constituent portions of the heraldic insignia of the United Kingdom—the three golden lions (or leopards) of England, "passant gardant in pale," carried since the reign of Henry II.; the red rampant lion of Scotland, within the double tressure flory counterflory, of which the origin is veiled by the mists of antiquity;[1] and the

[1] In common with earlier writers, Nisbet adopts the tradition which assigns the assumption of the rampant lion to Fergus I., who is alleged to have flourished, as King of Scotland, about 330 years before Christ. He also refers to the celebrated league which Charlemagne is said to have entered into, in the beginning of the ninth century, with Achaius, King of Scotland, on account of his assistance in war; "for which special service performed by the Scots, the French King encompassed the Scots lion, which was famous all over Europe, with a double tressure flowered and counterflowered with flower-de-luces (the armorial figures of France) of the colour of the lion, to show that it had formerly defended the French lilies, and that these thereafter shall continue a defence for the Scots lion, and as a badge of friendship." (*System of Heraldry*, vol. ii. part iii. p. 98.) On the other hand, Chalmers observes that these two monarchs were probably not even aware of each other's existence, and suggests that the lion (which, as we have seen, first appears on the seal of Alexander II.) may have been derived from the arms of the old Earls of Northumberland and Huntingdon, from whom some of the Scottish Kings were descended. He adds, however, that the lion was the cognizance of Galloway, and perhaps of all the Celtic nations. Chalmers also mentions an "ould roll of armes," preserved by Leland,

golden harp of the Emerald Isle, which has long taken the place of the three crowns formerly borne as the arms of Ireland. The fleurs-de-lis of France, originally assumed by Edward III. in the year 1340, and borne semée over the field till the beginning of the fifteenth century, were removed from the national escutcheon at the time of the Union with Ireland in 1801; and after the death of William IV., the arms of Hanover (carried by the first two Georges in the fourth quarter of the royal shield, and by the three succeeding monarchs on an escutcheon surtout) ceased to occupy their accustomed place, upon the Sovereignty of that Kingdom being severed from the British Crown.

The first important alteration in the mode of marshalling the royal arms took place in 1603, at the Union of the *crowns* of England and Scotland in the person of James I. and VI., who appears to have adopted the following arrangement:—Quarterly, I. and IV. counterquartered, 1 and 4 France, 2 and 3 England;[1] II. Scotland;

said to be of the age of Henry III. (1216), and which the context evinces to be as old as the reign of Edward I. (1272), in which the arms of Scotland are thus described:—"Le roy de Scosce dor a un lion de goules a *un bordure dor flurette de goules.*" He somewhat unaccountably remarks that "in this description, we see nothing of the double tressure."—*Caledonia*, i. 762, *note* (*i*). In 1471, the Parliament of James III. "ordanit that in tyme to cum thar suld be na double tresor about his armys, bot that he suld ber hale armys of the lyoun without ony mar." If this alteration of the blazon was ever actually made, it did not long continue.

[1] According to some writers, Edward III. at first placed the arms of England before those of France, but soon afterwards reversed the order, probably because France was the more ancient monarchy.

King James was not the first Scottish monarch who displayed the arms of England in his escutcheon. "Every one will recollect," says Mr. Hallam, "that Mary Stuart's reten-

III. Ireland. The supporters assumed by King James, and continued by all his successors, were a lion and a unicorn. The former had been carried, as one of their supporters, by several of his predecessors on the English throne, while two of the latter had supported the royal shield of Scotland from the reign of his great-grandfather, James IV.[1] According to Nisbet, however, "upon his accession to the throne of England, there were several considerations and consultations taken by his Majesty and Privy-Council of England, about the honours and precedency of his kingdoms of Scotland and England, and especially in marshalling their armorial ensigns; the difficulty arising from the armorial figures of England, being originally those of the *dukedoms* of Normandy and Aquitaine, being three leopards, which, as such, gave place to the flower-de-luces of France, as belonging to a *kingdom*. Upon the same reasons, the Scots claimed also precedency for their royal armorial figure, the lion rampant within a double tressure, the paternal arms of the king and his progenitors, used by them before the

tion of the arms and style of England gave the first, and, as it proved, inexpiable provocation to Elizabeth. It is indeed true, that she was Queen Consort of France, a State lately at war with England, and that if the sovereigns of the latter country, even in peace, would persist in claiming the French throne, they could hardly complain of this retaliation."—(*Constitutional History of England*, 4th edit., i. 127.) There was, however, something peculiar in Mary's mode of blazoning. She bore Scotland and England quarterly, the former being placed first; and over all a half scutcheon of pretence charged with the arms of England, the sinister half being partially obscured, in order to intimate that she was kept out of her right.—See Strype's *Annals*, vol. i. p. 8.

[1] Nisbet refers to the unicorn as a suitable badge of Scotland's independency, quoting some of the well-known verses in the 39th chapter of the Book of Job.—*System of Heraldry*, vol. ii. part iv. p. 35.

English used the leopards, and that the paternal ought to precede the maternal ones, as I mentioned before the King of Castile's arms were preferred to those of Leon, the wife's arms."[1] In referring to this "outbreak of touchiness on heraldic matters," Mr. Chambers remarks, that "wherever two nations are associated under one monarchy, the smaller usually manifests no small amount of jealousy regarding its national flag, and every other thing which marks its distinction, and which may have been associated with the national history. The government of Sweden is at this day under constant anxiety regarding the rampant lion and battle-axe of the Norwegian flag, lest on any occasion due honour should not be paid to it, and feelings of international hostility be thereby engendered."[2] In consequence of certain differences between his subjects of North and South Britain "anent the bearing of their flags," King James appears to have issued a proclamation, on the 12th of April 1606, ordaining the ships of both nations to carry, on their maintops, the crosses of St. Andrew and St. George interlaced; Scottish vessels being, at the same time, authorized to display the flag of St. Andrew, and English vessels the flag of St. George, in their sterns.[3] "After the union of the crowns," says Nisbet, "the Scots arms

[1] *System of Heraldry*, vol. ii. part iii. p. 99. Sir George Mackenzie claims precedency of the Kings of France and Spain for the King of Great Britain, on the ground of his being King of *Scotland*, which kingdom he considers ought to be preferred to England, as well as to France and Spain, on account of the greater antiquity of our royal race.—*Treatise on Precedency*, chap. ii.

[2] *Domestic Annals of Scotland*, i. 389.

[3] Sir James Balfour's *Historical Works*, ii. 13.

were preferred to the English, as in all his Majesty's seals, ensigns, and coins; though the English preferred England to Scotland, yet their seals, ensigns, and coins bear no authority further than the dominion of England; and though the legend round both seals was *Rex Magnæ Britanniæ, Franciæ, et Hiberniæ.*"[1] He then blazons the achievements of his Majesty, as King of Scotland and England respectively, and informs us that the latter mode of marshalling "had no authority in Scotland;" and that "no coins were current there but those that had the arms of Scotland placed in the first quarter before those of France, England, and Ireland, and ensigned with the imperial crown of Scotland."[2] Such precedence is given to the arms of Scotland (which are also repeated in the fourth quarter), in the achievement of Charles II., engraved in Sir George Mackenzie's *Science of Heraldry*, where the unicorn, as dexter supporter, is crowned with an imperial, as well as gorged with an open crown. The same arrangement occurs on the Great Seals of James VI., Charles I., Charles II., James VII., William and Mary, and Anne, in Anderson's *Diplomata Scotiæ*.[3] Nisbet further remarks, however, that "since the incorporate union betwixt England and Scotland in the reign of Queen Anne, the arms of the two nations have been otherwise marshalled together, where the lion of Scotland has lost his precedency"[4]—the blazon being, first and fourth, England and Scotland impaled; second, France;

[1] *System of Heraldry*, vol. ii. part iii. p. 100.

[2] *Ibid.* p. 101.

[3] Plates XCIV.-XCIX.

[4] *System of Heraldry*, vol. ii. part iii. p. 101.

third, Ireland ; with a lion as the dexter, and a unicorn as the sinister supporter.

Towards the beginning of the year 1817, an alleged alteration in the mode of marshalling the royal arms in Scotland appears to have been brought under the notice of the Home Secretary, the Lord Advocate, and other public functionaries, by Mr. Home, who then held the office of Lyon-Depute. In consequence of George III. having assumed the title of King of Hanover, a royal crown was substituted for the electoral bonnet over the arms of Hanover in the national escutcheon, in terms of an Order in Council, dated 8th June 1816. This alteration was directed to be made in the Great Seal of the United Kingdom, and in all the seals of office, stamps, coins, etc., where the royal arms were used. By some accidental or wilful neglect, the said Order was not communicated to the Lord Lyon, King-of-Arms for Scotland ; and it was only after a new seal had been sent from London for the use of the Court of Justiciary in Scotland, that the matter came to the knowledge of the Lord Lyon's Depute. Although the Order in Council made no other alteration in the royal arms than the substitution of the Hanoverian crown for the electoral bonnet, on the new Justiciary seal the first and fourth quarters of the shield were exclusively appropriated to the arms of England, while those of Scotland were placed in the second quarter. Mr. Home asserted that, "agreeably to heraldic principle and uniform previous custom," the arms of Scotland ought to occupy the first and fourth quarters of the escutcheon upon public places in Scotland, and

also on seals used in that portion of the kingdom. He founded his plea partly on the greater antiquity of the Scottish monarchy, and partly on the fact of the union of the two kingdoms, in the year 1707, not having been the result of victory on one side, but of an amicable agreement on both sides; and in support of his position, he referred to the first two of the passages in Nisbet, which we have already quoted. He then alluded to the 24th article of the Act of Union (16th January 1707), and the relative Order in Council three months afterwards, in terms of which the arms of England and Scotland were impaled in the first and fourth quarters of the royal escutcheon, and certain particulars settled respecting the Great Seal, Council Seal, flags, badges, etc., which, however, according to Mr. Home, were not intended to apply to Scotland. The Order makes no mention of the Scottish seals which are specially referred to in the Union Act, and, accordingly, Mr. Home concluded that Queen Anne thought proper to make no alteration on the seals used in Scotland, which were therefore allowed to be continued as formerly. At the accession of the House of Hanover, in 1714, an alteration was made in the arms of Great Britain, whereby the impaled ensigns of England and Scotland were withdrawn from the fourth quarter of the escutcheon to make way for those of Brunswick, England and Scotland being confined to the first quarter, and the second and third quarters assigned to France and Ireland as before. Such mode of marshalling was adopted in England, and on the coinage, etc. pertaining

to the United Kingdom, but on the seals, etc. peculiar to Scotland, according to Mr. Home, the arms of Scotland occupied the *dexter*, and those of England the sinister side of the first quarter, during the reigns of the first three Georges. At the union with Ireland in 1801, the arms of France, as already stated, were removed from the national escutcheon, while the first and fourth quarters were assigned to England, the second to Scotland, and the third to Ireland—the ensigns of Hanover being placed on a shield surtout. No intimation of this important change appears to have been made to the Lord Lyon, and consequently no new seals were struck for Scotland, where the old ones continued to be used; and the transmission of the new Justiciary seal, in the year 1816, suggested the remonstrance of the Lyon Depute in the beginning of the following year. We have been unable to learn the result of that remonstrance, of which it appears that no record has been preserved in the office of the Lord Lyon; and no less than six-and-thirty years passed away before another armorial agitation disturbed the peacefully-united sister kingdoms.

In the month of January 1853, a respectful petition was presented to the Lord Lyon by five citizens of the Scottish metropolis, in which various armorial grievances were set forth, while his heraldic majesty was requested to adopt certain somewhat summary measures, in virtue of the powers conferred upon him by the Acts of 1592 and 1672, and to take various other steps, with the view of promoting the objects of the petitioners. The

grievances in question may be briefly stated under the four following heads :—

1. The placing of the arms in Scotland in the second quarter, instead of the first and fourth quarters of the national escutcheon, on flags and standards displayed at the Castle of Edinburgh, and other forts and garrisons in North Britain — such arrangement not being in accordance with the mode of marshalling adopted on the Great Seal of Scotland down to the union of the Kingdoms in the reign of Queen Anne, and in all succeeding reigns ; on the Privy Seal of Scotland, and other official seals and documents in that portion of the empire ; and also on the exterior of government offices in the Scottish metropolis.

2. The placing of the cross of St. Andrew behind the cross of St. George, instead of in front thereof, on the Union standard displayed in the same situations.

3. The placing of the arms of Scotland in the third or sinister, instead of in the second or dexter shield, on the Two-shilling piece or Florin—a preference being given to the arms of Ireland.[1]

4. The removal of the imperial crown from the head

[1] There can be no doubt that the petitioners were right in the matter of the florin, the top of the "reverse" of which is clearly indicated by the marginal legend setting forth the name and value of the coin. Possibly, however, the arrangement adopted may have been an unintentional mistake on the part of the engraver, who perhaps regarded the four escutcheons as marshalled in circular order from the *left* (speaking heraldically), in which case the dexter shield, bearing the arms of Ireland, would be the fourth, Scotland the second, and England the first and third. Such a mode of computation, however, contradicts the quarterly arrangement of the arms in the national escutcheon, in which England occupies the first and *fourth* places.—See *Notes and Queries*, ix. 59.

of the unicorn, the supporter of Scotland in the national achievement, on the Great Seal of Great Britain, and other official seals used in England.

The answer shortly afterwards returned to the petition was to the effect, that the Lord Lyon had no jurisdiction in a matter which was vested in the Sovereign by an express provision of the Treaty of Union; and about three months later (13th April 1853), a new petition, addressed to the Queen by the Magistrates and Town Council of Brechin, was deposited at the Home Office by Mr. Joseph Hume. This petition embraced the principal heads of the Edinburgh memorial, and prayed for an inquiry into the facts set forth. It was forthwith referred by Lord Palmerston to the officers of the English College of Arms, and during the following month of May a report on the subject by Sir Charles George Young, Garter King-of-Arms, was received at the Home Office, and transmitted to the office of the Lord Lyon, from which it was returned to Lord Palmerston early in June, along with the observations of the Lyon Depute, Mr. Tytler of Woodhouselee. The Garter King refers, in his report, to the representation made to Lord Sidmouth, by Mr. Home, in 1817, "the complaint in fact being nearly the same as now urged;" but states that no intimation was ever given to the Earl Marshal as to the nature of the answer returned by the Home Office to the Lyon Depute. He points to the Order in Council, at the time of the Irish Union in 1801, as determining the position of the arms of Scotland in the national escutcheon (viz., the second quarter), and states

that when Tabards were prepared for the officers of arms in Scotland by the Earl Marshal, in the year 1820, that arrangement was followed. He alludes to the mode of marshalling adopted on the Great Seal used by King James in England from 1603 (to which we have already referred), where the arms of Scotland occupied the second quarter, while the unicorn, as sinister supporter, was not royally crowned, its neck being gorged with a coronet, "as it has continued to this day." He acknowledges, however, that on the Great Seal of Scotland, the arms of that kingdom had precedence of France and England, and that the head of the unicorn, as *dexter* supporter, was royally crowned; adding that such mode of marshalling became incongruous and inconvenient, when the independence of Scotland ceased, by the two kingdoms becoming *one*. The Garter King then refers to the 1st and 24th articles of the Treaty of Union, and the relative Order in Council of 17th April 1707. The former of these two articles declares that "the ensigns-armorial of the said United Kingdom be such as her Majesty shall appoint, and the crosses of St. George and St. Andrew[1] be conjoined in such manner as her Majesty

[1] In the Scottish version of the "Act ratifying and approving the Treaty of Union," the order of the crosses is *reversed*, St. Andrew being somewhat significantly mentioned before St. George.

Sir N. H. Nicolas is of opinion that the flag arranged by the heralds on the occasion of the royal proclamation in 1606 was the same as that adopted, as the national banner, a hundred years later. At the union with Ireland, in 1801, the banner of St. Patrick was combined with those of St. George and St. Andrew; and since that date, the three crosses have constituted the second "Union Jack," in accordance with the following blazon:—*Azure*, the crosses saltire of St. Andrew and St. Patrick quarterly per saltire, counterchanged *argent* and *gules*; the latter fimbriated (or

shall think fit, and used in all flags, banners, standards, and ensigns, both at sea and land." The 24th article provides that "the quartering of the arms, and the rank and precedency of the Lyon King of Arms of the Kingdom of Scotland, as may best suit the Union, be left to her Majesty; and that, in the meantime, the Great Seal of England be used as the Great Seal of the United Kingdom, and that the Great Seal of the United Kingdom be used for sealing writs to elect and summon the Parliament of Great Britain, and for sealing all treaties with foreign princes and states, and all public acts, instruments, and orders of State which concern the whole United Kingdom, and in all other matters relating to England, as the Great Seal of England is now used; and that a seal in Scotland, after the Union, be always kept and made use of in all things relating to private rights or grants which have usually passed the Great Seal of Scotland, and which only concern offices, grants, commissions, and private rights within that kingdom; and that until such seal shall be appointed by her Majesty, the present Great Seal of Scotland shall be used for such purposes; and that the privy-seal, signet, casset, signet of the Justiciary Court, quarter-seal, and

rather edged) of the second; surmounted by the cross of St. George of the third, fimbriated as the saltire. The term *Jack* is most probably derived from the surcoat or jacque (whence the word *jacket*) anciently worn by the English soldiery, and not, as has sometimes been alleged, from *Jacques*, in consequence of the first alteration in the banner having been made during the reign of James VI.—See *Glossary of Heraldry*, p. 315.

The Duke of Wellington bears the second union jack over his paternal arms in an inescutcheon—placed on the honour point of the shield—which was appropriately granted to the hero of Waterloo as an "honourable augmentation."

seals of courts now used in Scotland be continued ; but that the said seals be altered and adapted to the state of the Union, as her Majesty shall think fit."[1] The Order in Council directs "that the draft marked A be made use of for the manner of bearing armes for the said United Kingdome, that Her Majesty's motto, *Semper eadem*, be continued, and that the same quartering of armes be used in Ireland and other Her Majesty's dominions ; . . . that the union flagg continue as at present ; that the standard be the armes of the United Kingdome, etc., without the orders, legends or supporters ; that the flaggs be according to the draft marked C, wherein the crosses of St. George and St. Andrew are conjoyned ; that the Badges for her Majesty's state in Parliament and elsewhere be according to the severall drafts marked D ; that where such ornaments are necessarily to be used, they may be properly intermixed, so as the English have the preference of the Scots, but where the rose and thistle are to be used alone, then to be represented as the thistle inoculated upon the stalke of the rose." It so happens that none of the drafts mentioned in the Order appear in the Council Register, but there can be no doubt that in the marshalling in question, the first and fourth quarters of the escutcheon were occupied by the arms of England and Scotland impaled,

[1] In his "observation" on the relative minute of the Scottish Parliament, De Foe remarks that "the debate of the rank and precedency of the heralds, and of the quartering of arms, the standards and colours, was a thing of no great consequence, nor could it be referred to anybody better than Her Majesty ; and therefore the dispute of this was not long."—*History of the Union between England and Scotland*, p. 475.

the second quarter by the arms of France, and the third by the arms of Ireland; that the dexter supporter was the lion royally crowned, and the sinister, the unicorn gorged with a crown ornamented with crosses patée and fleurs-de-lis alternately; and that the cross of St. George surmounted the cross of St. Andrew. Her Majesty's principal Secretaries of State were directed to signify the royal decree "within the United Kingdome of Great Britain, Ireland, Her Majesty's plantations in America, the islands of Jersey and Guernsey, and other Her Majesty's dominions." The Garter King remarks that no exception was made in favour of Scotland, and that the order applied to the whole of the United Kingdom. He refers to the passage in Nisbet, which we have already quoted, with reference to the Scottish lion's loss of precedency "since the incorporate union," and observes that if the Great Seal of Scotland was otherwise cut, in contravention of the Order in Council, he "cannot tell upon what authority it has been sanctioned."

In alluding to the alleged removal of the imperial crown from the head of the Scottish supporter, the Brechin petitioners remark that the unicorn is thus reduced to the rank of a "private or provincial supporter, instead of representing the ancient kingdom of Scotland." The Garter King, on the other hand, asserts that the head of the unicorn has never been crowned in the royal achievement of Great Britain, and that, while the absence of the crown does not convert it into a "private" supporter, the supporters of a *subject* are not unfrequently

crowned.[1] Again, the Lyon-Depute (Mr. Tytler) remarks, that even in Scotland the crowned unicorn is of comparatively recent occurrence, dating only from the accession of James VI. to the English throne. In Sir David Lindsay's blazon of the royal arms of Scotland, no crowns appear on the heads of the unicorns, and the same arrangement occurs on Queen Mary's Great Seal, in which, however, the cross of St. Andrew is surmounted by an open crown, on at least one of the banners passing behind the escutcheon.[2] With reference to the Orders in Council of Queen Anne and George III., the Lyon-Depute is satisfied that they were both "intended to apply to Scotland, to the extent of prescribing the manner in which the armorial bearings of the United Kingdom were to be there carried;" thus formally confirming the opinion of the English Garter King, that one uniform mode of marshalling was enjoined for the whole British empire.

The subject in question has caused a good deal of agi-

[1] As furnishing examples of *ducally* crowned supporters, we may mention the achievements of the Duke of Northumberland, the Earl of Kingston, Lord Carbery, and Sir Edward Meredyth, Bart. Animate crests as well as charges are also frequently crowned, as in the escutcheon of a well-known Scottish ironmaster on one of the windows in Glasgow Cathedral, in which three rampant lions are adorned with crowns, being the arms of an ancient Derbyshire family of the same surname, with which, however, we presume the ironmaster has not the slightest connexion.

[2] See Plate XIII. fig. 4.

There seems to be no good evidence of the lion having been crowned in the royal achievement of England before the sixteenth century. On the Great Seal of Henry VIII., the supporters were a dragon and a greyhound, but he afterwards assumed a lion (in some instances crowned) for his dexter supporter, and placed the dragon on the sinister side. Nisbet, however, appears to consider that Edward VI. was the first English monarch who crowned the head of the lion.—See *System of Heraldry*, vol. ii. part iv. p. 36.

tation, at least on this side of the Tweed; and the tone of criticism adopted by certain journals has not been altogether satisfactory. Possibly some persons may have attached too much importance to the subject, but surely a respectful representation relative to a somewhat doubtful point is entitled to a fair and patient consideration. One honourable exception among the wholesale abusers of the public press was found in the venerable "Sylvanus Urban," who thus refers to the "ill-natured and ignorant shout of ridicule" which was raised against the Edinburgh petitioners:—"The argument maintained by the *Times*, in opposition to the remonstrance, is this: that heraldic symbols being utterly worthless, and of no more importance than a 'particular checked pattern for a pair of trowsers,' they may be assumed or changed at pleasure; that it is perfectly indifferent whether they are correctly or incorrectly displayed; and that the heraldry of a stage melodrame or of the London cabs is just as good as that of the College of Arms. We have always maintained that there are two respects in which heraldry is valuable—the one as a means of historical evidence, the other as a branch of the arts of design. . . . And shall we be told that true taste, correct marshalling, and accurate delineation, are unimportant even on the national standard or on the coins of the realm? Is anything like art to be disregarded in our current money,—'so that enough of the commodity can be procured, and that it will pass for the value it professes to represent?' These are sentiments which do not become a civilized country or a civilized age. . . . Though the wishes of the Scot-

tish petitioners may be overborne by an assertion of the superiority of the imperial to the merely provincial marshalment of the national insignia, they by no means deserve, as gentlemen and as scholars, to be held up to ridicule for representations in which they are technically correct, and in the assertion of which they have been actuated by those feelings of ancient patriotism which have, from generation to generation, preserved a fine spirit of honourable nationality among our northern countrymen."[1]

The general *practice* in Scotland, in the matter in question, has most assuredly been more in accordance with the notions of the complainers than with the views adopted by the Garter King-of-Arms. Of late years, perhaps, the tendency may have been rather in the other direction; but for nearly 150 years after Queen Anne's Union, there can be no doubt that, whether rightly or wrongly, the precedence was usually given to the arms of Scotland on official seals and government buildings on this side of the Tweed. In the year 1729, a royal warrant was issued authorizing payment of the sum of £509, 8s. 9d. to John Rollo, "chief engraver of our seals," for the making and engraving of several seals and signets—including the Great Seal, Privy Seal, Justiciary Seal, etc.—for "that part of our United Kingdom called Scotland;" and thirty-seven years later (2d May 1766), the sum of £532, 15s. 1d. was paid to Christopher Seaton, then "chief engraver," under a similar warrant, in accordance with the particulars expressed in a bill annexed

[1] *Gentleman's Magazine*, vol. xxxix. (new series), p. 282.

to the warrant, of which the following is an excerpt :— "The Great Seal of North Britain engraven on one side with his Majesty's whole atchievement, being, within an escutcheon, his Majesty's royal coat-of-arms surrounded with the two Orders of St. Andrew and St. George, . . . supported on the *right* side by a unicorn *with an imperial crown over the head,* holding a banner, with the union crosses of St. Andrew and St. George, gorged about the neck with an ancient crown with a chain fixed to it, the left supporter, a lyon guardant, crowned with an imperial crown, holding also a banner with the union crosses of St. George and St. Andrew ; . . . on the other side, his Majesty's effigies on horseback, with a sword drawn in his hand, and, *for a distinction* from the Great Seal of Great Britain, a thistle and rose joined together for the Union, and in a prospect the City of Edinburgh," etc. Here, it will be observed that the precedency is given to Scotland, so far at least as the exterior ornaments are concerned ; and although the marshalling of the escutcheon is not specified, there can be no doubt that similar precedency was there ceded to the Scottish lion. The same precedency is distinctly referred to by several English writers on Heraldry. Thus, in noticing the removal of the arms of France from the national escutcheon in the year 1801, a recent author remarks that "the English shield became I. and IV. England, II. Scotland, III. Ireland ; it being, at the same time, agreed (?) that Scotland's lion should in Scotland be allowed to take precedence of our English leopards."[1] Again, the writer

[1] Millington's *Heraldry in History, Poetry, and Romance,* p. 330.

of an able article on Heraldry in the last edition of the *Encyclopædia Britannica*,[1] observes that "in Scotland the preference has been given to the royal arms of that kingdom, by placing them in the principal place on many of the official seals in use for that part of the United Kingdom." Such arrangement is adopted on the seals or cameos at present used by the Lord Advocate of Scotland, and by the General Prison Board; but on those of most of the Government departments—including the Post Office, Lunacy Board, Justiciary Office, Board of Supervision, Inland Revenue Office,[2] etc.—the arms of England occupy the principal place. In a few instances, as on the seal of the Board of Manufactures, only the arms of Scotland, with two unicorns as supporters, appear—England and Ireland being altogether ignored. Considerable variety prevails in the marshalling displayed on public buildings, and over the shops of her Majesty's tradesmen in the Scottish metropolis. Thus, at the Exchequer, the lion rampant occupies the first and fourth quarters of the escutcheon, of which the dexter side is supported by the unicorn. The same arrangement occurs at the National Security Savings Bank, and at the establishments of her Majesty's postmaster, optician, upholsterer, etc., the head of the unicorn being sometimes crowned and sometimes uncrowned. At the Register House, on the other

[1] Thomas W. King, York Herald.

[2] Towards the end of the year 1856, a correspondent of the *Edinburgh Courant* called public attention to the circumstance of the Inland Revenue Office having issued an envelope bearing a royal shield, in which Scotland occupies the first, England the second and third, and Ireland the fourth quarter; "by which means (the writer observes) England is still made to hold *two* quarters, and Scotland only one."

hand, the first quarter of the shield is occupied by England and Scotland impaled, the former being placed first, and the unicorn acting as the sinister supporter. The same disposal of the *escutcheon* is exhibited on the pediment of the Royal Bank, where, however, the unicorn is placed on the *dexter* side of the shield. A somewhat similar compromise appears on one of the ceilings at Holyrood, and also on the cameo of the Roxburghshire Constabulary, where England occupies the first and fourth quarters of the shield, while, in the case of the supporters, the unicorn has the more honourable position. The royal achievement, as displayed on the *Edinburgh Gazette*, and also on the title pages of most of the Bibles printed in Scotland, must fully satisfy the desires of the most patriotic Scotchman, viz., Scotland, first and fourth in the escutcheon; one of the Scottish mottos (In Defence) issuing from behind the imperial crown; the unicorn as dexter supporter, with a crown on his head as well as round his neck; and, in the case of the *Gazette*, the cross of St. Andrew surmounting the cross of St. George, on the dexter banner.

We have endeavoured to state all the facts of the case, as urged by the rival disputants, in a fair and impartial manner, and it will probably be acknowledged that there is a good deal to be said on both sides. The terms of the Treaty of Union are certainly not so explicit as they might have been; but whatever may have been intended, it is certain that, in the relative Order of Council, no provision is made with reference to a special mode of marshalling in Scotland. If the *law* appears to

be somewhat against the position of the remonstrants, on the other hand, the *practice*—at least till very recently—has been decidedly in their favour. Everything considered, however, it is probably desirable that our national achievement should be the same in every corner of the kingdom,[1] and that no unnecessary alteration should be made which is, in the least degree, calculated to perpetuate national distinctions. The union of 1603 was a union of two *independent* kingdoms—a mere union of their crowns; but a hundred years later, it was a union of these two kingdoms into *one*. By such United Kingdom we incline to think that only one *unvarying* armorial achievement can, with perfect propriety, be used; and even on the plea of our more ancient monarchy, and of our having furnished a sovereign to England on the death of the "Virgin Queen," we could hardly claim precedency for the arms of Scotland.[2] Perhaps, indeed, it might be urged that the retention of her distinctive

[1] The conclusion at which we have arrived appears to be quite compatible with the opinion expressed in a previous chapter with reference to the precedency of the Lord Lyon (*supra*, p. 34); in other words, the giving the preference, in the national achievement, to the arms of Scotland in that country, does not seem to constitute one of the "other heraldic analogies" there referred to.

It has been suggested that there might be a distinction in the mode of marshalling the royal arms, in the case of the Post Office and other *imperial* departments in Scotland on the one hand, and of the Board of Supervision and similarly *independent* departments on the other—the precedency being given to England in the former, and to Scotland in the latter instances. We are very much disposed, however, to question the propriety of such a flexible arrangement.

[2] Instead of repeating the arms of England in the fourth quarter of the national escutcheon, it has been proposed that some suitable device should be introduced to represent the vast *colonial possessions* of Great Britain. Another course would be to assign the fourth quarter to the arms of *Wales*, viz., quarterly, *gules* and *or*, four lions passant gardant counterchanged.

Great Seal is more than Scotland was legally entitled to, and that it ought to have been absolutely abolished. Like the Scottish crown and sceptre, however, let it be carefully preserved as a token of her ancient independence;[1] and, while we justly cherish the recollections of our bygone nationality, let us be thankful for our thorough incorporation with the mightiest empire in the world—honestly acknowledging that, even on this side of the Tweed, heraldic precedence ought to be granted to England,[2] in accordance with the sentiment of certain well-known classical lines:—

"The Lion and the Unicorn
Were fighting for the crown;
The Lion beat the Unicorn
All round the town!"

[1] See a curious dialogue between Lord Redesdale and Mr. (afterwards Lord) Brougham relative to the crown of Scotland, at the discussion, before the Privy-Council, of the rival claims of the Duke of Hamilton and Lord Douglas to bear the said crown at royal processions.—Balfour's *Antiquarian and Heraldic Tracts*, Appendix, p. xxxii.

[2] Such acknowledgement, however, is not intended to imply the slightest approval of the Cockney fashion of describing the whole of the United Kingdom by the word England, which is at once an incorrect and unconstitutional application of terms. If our northern countrymen object to calling themselves Britons on the continent of Europe, at any rate let them substitute Scotchmen for Englishmen, and in most places, particularly in France, their reception will not be the less cordial. The poet may, if he thinks proper, speak of the "meteor flag of England;" but, in point of fact, it is *Britannia*, and not Albion, that "rules the waves."

CHAPTER XI.

ODDS AND ENDS.

In the preceding chapters, we have incidentally touched upon several of what may be termed the minor peculiarities of Scottish heraldry, and we now propose to refer to a few other distinctive points, of a somewhat miscellaneous character, which have escaped our notice.

In the course of our observations on the royal arms, we alluded to the Double Tressure, "flowered and counterflowered," which surrounds the rampant lion of Scotland, and which has been termed the "bordure of Scotland," in consequence of its frequent occurrence in the heraldry of that portion of the kingdom. "The word," says Sir George Mackenzie, is "*Trescheur* in the French, which comes from *Tressouer* or *Tressoir*, a Tressing; and I conceive that these tresses were introduced in heraldry upon coat-armours to represent the silver and gold laces with which coats are usually adorned."[1] The Tressure constitutes one of the subordinaries, and is generally regarded as a diminutive of the Orle. It may be single, double, or even triple, but it is almost invariably borne *double*, and usually "flory counterflory." As exhibiting instances of the single

[1] *Science of Heraldry*, chap. xxxiv.

tressure (flory), we may mention the seals of William Livingstone of Balcastell (1469), David, William, and John Charteris (1474-1584), and Sir James Hamilton of Finnart (1532).[1] The earliest examples of the double tressure in Mr. Laing's *Catalogue* are furnished by the seals of Alexander Dunbar, third son of Patrick, seventh Earl of March (*c.* 1260), John, Earl of Caithness (1292), and Henry Fernindrauch (1292).[2] The design on the last-mentioned seal is not on a shield, and consists of a lion coiled within a double tressure flowered ; while in the two other instances the tressure is both flowered and counterflowered. The seals of the following century furnish several examples of the double tressure, invariably both flowered and counterflowered, of which we may specify those of Thomas Randolph, Earl of Moray (1314), Thomas Fleming (1366), and William (first Lord ?) Seton (1384).[3] When the tressure is impaled, it ought always to be omitted, like the bordure, on the side next the line of impalement ; but occasional examples of a complete tressure in impaled shields occur as late as the middle of the fifteenth century, as on the seal of Mary of Gueldres, Queen of James II. (1459.)[4]

In several instances, the double tressure has been granted, as an honourable augmentation, to the Scottish noblesse, and more especially to those descended from daughters of the royal house. "By our ancient and

[1] Laing's *Catalogue*, Nos. 535, 172-4, and 403.

[2] *Ibid.* Nos. 288, 149, and 330.

[3] *Ibid.* Nos. 690, 337 and 738 ; also Plate XI. fig. 8.

[4] *Ibid.* No. 48.

modern practice," says Nisbet, "the double tressure is not allowed to be carried by any subject, without a special warrant from the sovereign, and that in these two cases: first, to those who were descended of daughters of the royal family, and so to them it is a tessera of a noble maternal descent, as the orle is to the Spaniards. And, secondly, to those who have merited well of their king and country, as a special additament of honour."[1] Again, according to Sir George Mackenzie, "it is a rule in the heraldry of all nations, and in use with us, that no part of the royal bearing can be bestowed by the Lyon, without a special order from the Prince (*Colomb. cap. des brisurs*, p. 74). And this may reprehend the error of some of our heralds, who have given the tressure flori counterflori to private persons without a warrant."[2]

As examples of families bearing the double tressure in virtue of their royal maternal descent, Nisbet mentions the Randolphs, Earls of Moray, the Lyons, Earls of Strathmore, the Kennedys, Earls of Cassilis, the Grahams of Fintry, and the Murrays, "especially those of Tullibardine and Athol." He also mentions the Erskines, Earls of Kellie, the Ramsays, Earls of Holderness, and the Scots of Thirlstane, as carrying the same honourable charge, on account of "special services to their king and country;" and refers to its presence in the achievement of the Setons, Earls of Winton, on the *double* ground of "maternal descent and merit."[3] The special concession

[1] *System of Heraldry*, i. 180.

[2] *Science of Heraldry*, chap. ii. See also chap. xxi.

[3] In addition to the tressure in his paternal arms on account of royal descent, a special coat of augmentation (already referred to) was granted to Sir Alexander Seton, Governor of

of James v. to John Scott of Thirlstane, in the year 1542, refers to his loyalty and ready services "at Sautra edge, with three score and ten launcieres on horsback," and directs the Lyon Herald and his deputies for the time being "to give and to graunt to the said John Scott ane border of fleure-de-lises, about his coatte of armor, sic as is on our royal banner, and alsua ane bundell of launces above his helmet, with thir words, *Readdy, ay Readdy.*"[1]

"From far St. Mary's silver wave,
From dreary Gamescleuch's dusky height,
His ready lances Thirlstane brave
Arrayed beneath a banner bright.
The tressured fleur-de-luce he claims
To wreathe his shield, since royal James,
Encamped by Fala's mossy wave,
The proud distinction grateful gave,
For faith, 'mid feudal jars;
What time, save Thirlstane alone,
Of Scotland's stubborn barons none
Would march to southern wars;
And hence, in fair remembrance worn,
Yon sheaf of spears his crest has borne;
Hence his high motto shines revealed—
'Ready, aye Ready' for the field."[2]

Berwick, *c.* 1320, viz., a sword supporting an imperial crown, within the royal tressure, "to perpetuate to posterity the memory of his own and his progenitors' worthy actions for their king and country."—*System of Heraldry*, i. 233. According to Sir George Mackenzie, the sword supporting the crown was carried by the Setons of Barns, because these lands were at first granted with that coat of augmentation.

[1] Plate xiv. fig. 5.

For the rival strictures on this grant, see Napier's *History of the Partition of the Lennox*, p. 217, and Riddell's *Answer*, p. 79.

Nisbet mentions two special instances of grants of the royal tressure to *foreigners*, the one, by James v., to Nicolas Combet of Dieppe, in the year 1529, and the other, by James vi., to Jacob Van-Eiden, a Dutchman, on the occasion of his knighthood.—*System of Heraldry*, i. 180.

[2] *Lay of the Last Minstrel*, iv. 8.

The double tressure is displayed in the arms of the "fair city" of Perth, and of the good town of Aberdeen, having been granted to the inhabitants of "Bon Accord" on account of their loyal services against the English. It also appears in the escutcheons of the following families:—The Gordons, Marquises of Huntly and Earls of Aberdeen, the Flemings, Earls of Wigton, the Livingstones, Earls of Linlithgow, the Maitlands, Earls of Lauderdale, the Montgomeries, Earls of Eglinton, the Charterises, Earls of Wemyss, the Primroses, Earls of Rosebery, the Bellendens, Lords Bellenden,[1] the Edmonstones of Duntreath, the Dick-Lauders of Bass and Fountainhall, the Buchanans of that Ilk, the Grahams of Balgowan, the Lundins of that Ilk,[2] and several branches of the Houses of Stewart and Dunbar. In the coat of the Marquis of Huntly, the tressure is flowered with fleurs-de-lis within, and adorned with *crescents* (for Seton) without; while in that of the Earl of Aberdeen, it is flowered and counterflowered with *thistles*, *roses*, and fleurs-de-lis alternately.

Dallaway refers to the circumstance of Upton describing the *orle* "by the word tractus or trace, which when floretté (he remarks) is a tressure single or double, and is a bearing almost peculiar to Scottish families."[3] As already incidentally stated, the orle is of very frequent occurrence in Spanish heraldry, being granted by the sovereign, like the tressure in Scotland, as a special

[1] Now represented by the Duke of Roxburgh, in whose achievement, however, the armorial ensigns of Bellenden do not find a place.

[2] See p. 92, *supra*.

[3] *Heraldic Inquiries*, p. 409.

augmentation of honour. It is usually composed of the royal lion and castle alternately, and occurs *vert* and *argent*, in the windows of Merton College, Oxford, in commemoration of the alliance between Edward I. and Eleanor of Castile. When bezants and other small charges are borne orleways, they ought rather to be blazoned as "eight bezants in orle" than as "an orle of bezants." An example of this style of bearing occurs in the well-known escutcheon of the Valences, Earls of Pembroke, viz., barry of twelve, *argent* and *azure*, over all nine martlets in orle, *gules*.

The well-known heraldic charge termed a *Gyron* is supposed to be of Spanish origin, as the word in that language signifies a gusset, or triangular piece of cloth. It is of frequent occurrence in armorial bearings all over Europe, particularly in Spain, where it is carried by several distinguished families, including the House of Giron, from which the Dukes of Ossuna are descended. It also forms a pretty prominent figure in Scottish heraldry, where, however, as in England, gyrons are never carried otherwise than forming the pattern called "gyronny," in which the usual number of pieces is *eight*, although in England they are occasionally ten, twelve, and even sixteen. "Gyronny of eight" appears to be the favourite arrangement in Scotland, as in the escutcheon of the Campbells, where the tinctures are usually *or* and *sable*. It is also borne by the surnames of Matthew and Matthison (*sable* and *gules*), and by certain branches of the family of Spence (*argent* and *azure*). Sir George Mackenzie considers that a more correct blazon is by the

ordinary lines, viz., party per pale, fess, and bend dexter and sinister—said to be derived from the sword-cuts received by the shield in action—which the French express by the terms "parti, coupé, tranché, taillé." The gyron upon which the tinctures ought to begin is the uppermost on the dexter side, *i.e.*, the first of the four triangles above the horizontal line which crosses the fess point of the escutcheon. Sometimes, however, the tinctures are erroneously made to begin on the *second* of these four triangles, as in several achievements of the Campbells engraved in Nisbet's *Heraldry*, to which the author specially alludes.[1] The rare blazon of gyronny of six occurs in the escutcheon of the English family of Callard, in which case, contrary to the general rule, the tinctures do not begin in the first of the three uppermost compartments, but in the second, or middle, compartment, "because it possesses," according to Nisbet, "the most part of the chief, and the other but a cantle or lesser part of it."[2] Party per saltire is sometimes called gyronny of four, but this has been properly regarded as an objectionable blazon, "not only as being unnecessary, but because in English (and Scottish) armory one of the lines forming the pattern called gyronny should ever be in fess."[3]

[1] *System of Heraldry*, vol. i.; Plates 5, 6, 7.

The same mistake has, unfortunately, been made at pp. 96 and 105 of this volume, where the Argyll and Breadalbane coats are represented as sable and or, instead of *or* and *sable*, and the arms of Loudon gules and ermine, instead of *ermine* and *gules*.

[2] *Ibid.* i. 27.

Towards the commencement of the sixteenth century, the services of John Callard, an English adventurer, were acknowledged by Ferdinand and Isabella granting him a new coat of arms, viz., gyronny of six, *or* and *sable*, on each of the first a Moor's head, couped, proper.

[3] *Glossary of Heraldry*, p. 155.

Armorial analogies are much more frequent in Scottish and French than in Scottish and Spanish heraldry. In noticing the fact that most nations are distinguished by certain heraldic peculiarities, Sir George Mackenzie refers to the "*Ave Marias*, I.H.S., and such other devout characters," in the shields of the Spaniards; to the "emblems and witty hieroglyphics," in the arms of the Italians; to the numerous quarterings of the Germans, "who are vain (he says) of nothing so much as of their pedigrees;" and to the strange charges of the Poles and Danes, "wild and monstrous as the people are who bear them!" "But the French," he continues, "who are great artists, wherever they study, do suffer their natural volageness to be confined and fixed by rules of art; and the Scots, to express their friendship to the French, have, of old, imitated them in their heraldry, as much as we do the English, since we were happily united with them under one monarchy."[1] Thus, while the English heralds affirm that if there be more than one *Chevron* in a shield, the proper term is Chevronel; "but the French say three chevrons, and why not three chevrons as well as three bends, bars, etc.? The French mark one, three, four, or five chevrons at pleasure, and in this, as in many other things, we follow the French."[2] Accordingly, the old Earls of Strathern bore *or*, two chevrons *gules*, while the Maclellans carry two chevrons *sable* on the same field.

Again, the small circular charges called *Roundles* or Roundlets, are distinguished in English heraldry by

[1] *Science of Heraldry*, chap. i. [2] *Ibid.* chap. xiv.

different names, according to their tinctures—when *or* being termed bezants; *argent*, plates; *gules*, torteaux; *azure*, hurts; *vert*, pomeys (*Fr.* pommes); *sable*, ogresses, pellets, or gunstones; *purpure*, golpes; *sanguine*, guzes; and *tenné*, oranges. In both France and Scotland, however, gold and silver roundles are indiscriminately called *bezants*,[1] and all the rest *torteaux*, the tincture being always added. In alluding to the multiplicity of the English terms, Colombier remarks:—"C'est plus tost obscurir la science que l'eclairir, c'est pourquoy je ne scaurois approuuer ces terms bigiarres d'Angleterre."

The number of the *Ordinaries*, or principal heraldic charges, does not appear to have ever been precisely fixed. English heralds usually enumerate *nine*, which they call "honourable," viz., the chief, pale, bend, bend sinister, fess, bar, cross, saltire, and chevron; while the French generally reckon them as *ten*, excluding the bend sinister, and adding the bordure and the orle. Although he does not expressly say so, Sir George Mackenzie appears to follow the French classification, seeing that he treats of the bordure and orle before the cross and saltire.[2] Nisbet, on the other hand, adopts

[1] The bezant represents a coin of Byzantium, and was probably introduced into English and Scottish heraldry by the crusaders. "Of late," says Mackenzie, "they are borne by such as have been raised by being Treasurers or Customers, for these bezants are still of metal."—*Science of Heraldry*, chap. xviii. (See the arms of the family of Pitt, *supra*, p. 135.)

[2] Some writers consider that the ordinaries represent the various parts of a warrior's armour, the chief bearing reference to the helmet, the pale to the lance, the bend to the shoulder-belt, the cross to the sword, the fess to the scarf, and the chevron to the spurs: "but this," says Mackenzie, "is but a conjecture or fancy, and I rather think that these have been invented to be different marks of dif-

the English mode of reckoning, his reason being, to use his own words, that "since our heralds have followed the English in numbering the ordinaries, so shall I." It is somewhat strange, however, that he does not advert to Sir George Mackenzie's mode of treatment.

The extensive effects of the ancient alliances between Scotland and France are strikingly illustrated in the recent elaborate work of M. Francisque-Michel.[1] The long and constant intercourse between the two countries, the French origin of several of our oldest Scottish families, and the settlement in France of many natives of Scotland during the fifteenth and sixteenth centuries, necessarily resulted in numerous instances of heraldic analogy. The pages of the learned work to which we have just referred abound with illustrative examples, and, besides the arms of many other families mentioned in the text, embrace upwards of a hundred engravings of French blazons. Among these, we find the following Scottish surnames:—Hay, Scott, Grant, Gray, Forbes, Stewart, Ramsay, Spens, Blair, Douglas, Murray, Hume, Somerville, Hamilton, and Macdonald. A large number of the remaining blazons pertain to surnames, of most of which it is almost unnecessary to specify the Scottish counterparts; such as Frezel (Fraser), Menypeny (Monypeny), Conyghan (Cunyngham), Locart (Lockhart), Quinemont (Kynynmond), Le Vincton or Leviston (Livingstone),

ferent qualities in the bearer; as, for example, the chief rewards those actions which are the product of wit, the cross, religious exploits, etc."—*Science of Heraldry*, chap. ix.

[1] *Les Ecossais en France, les Français en Ecosse*, 2 vols. A supplementary volume, embracing an index to the whole work, is understood to be in the course of preparation.

Tournebulle (Turnbull), Coqueborne (Cockburn), Acquet (Halket), Vulcob (Wauchope), Anstrude (Anstruther), Oillamson (Williamson), and Hellibarton (Halyburton). In the large majority of the blazons, the resemblances to the charges carried by the Scottish families of corresponding surnames are very marked. Thus, while one branch of the Scotts bears—d'or, à trois têtes de lions arrachées de gueules, lampassées d'azur; the arms of another branch of the same family consist of—d'or, au cerf naturel en repos, ayant un collier d'azur, chargé d'un croissant entre deux étoiles d'or.[1] As other interesting examples of heraldic analogy, we may specify the following:—

Grant—de gueules, à trois couronnes d'or antiques.
Ramsay—d'argent, à l'aigle de sable, becquée de gueules.
Somerville—d'azur, à trois molettes d'or, et sept croix recroisetées, au pied fiché d'argent.
Anstrude—coupé, emmanché de sable, sur argent de trois pièces.
Leviston—de sable, à trois quintefeuilles d'argent.
Coqueborne—d'argent, à trois coqs de gueules.[2]

Another curious point of resemblance between our countrymen and the French is furnished by the custom, which at one time prevailed in both countries, of landowners signing by the names of their estates, instead of by their Christian names and surnames. The latest statute relative to the jurisdiction of the Lord Lyon (1672, c. 21), declares "that it is only allowed for Noblemen and Bishops to subscribe by their titles; and that all

[1] *Les Ecossais en France*, Engravings, Nos. 76 and 10.

[2] *Ibid.* Nos. 11, 35, 94, 72, 39, and 65.

others shall subscribe their Christned names, or the initial letter thereof, with their surnames, and may, if they please, adject the designations of their lands, prefixing the word 'OF' to the said designations."[1] To this day, however, in many parts of Scotland—particularly where their surnames happen to be common in the locality—the custom of speaking of landed gentlemen by the names of their estates is by no means rare.[2] In like manner, it appears from De la Roque that, towards the end of the sixteenth century, the practice in question was checked in France by means of legislative interference. "On a veu," he remarks, "des gentils-hommes signer du nom de leurs seigneuries et non pas de celuy de leurs familles. Comme c'est un abus considerable, les Estats de Blois tenus en 1579, art. 211, deffendirent à tous gentils-hommes de signer dans les actes et contracts aucun autre nom que celuy de leur famille, à peine de nullité."[3]

The term *Master*, as frequently applied to the heir-apparent in the lower orders of the Scottish Peerage, is probably another instance of the adoption of a French fashion. "The title of Master," says Mr. Riddell, "in

[1] Notwithstanding the ordinary practice to the contrary, two English peers, Lords Beauchamp and Bayning, are in the habit of prefixing to their titular signatures the names which they, or their predecessors, assumed by sign-manual—the one signing as "Pyndar Beauchamp," and the other by the still more singular style of "*William* Powlett Bayning."

[2] The same custom is also to be traced in the judicial titles of several members of the Scottish bench, of whom, at the present moment, no fewer than nine out of thirteen bear territorial designations, viz., the Lord Justice-General (Colonsay), the Lord Justice-Clerk (Glencorse), Lords Curriehill, Benholme, Ardmillan, Kinloch, Jerviswoode, Ormidale, and Barcaple.

[3] *Traité de l'Origine des Noms*, p. 99. The same author also refers, at p. 183, to a similar ordinance by the States-General, at Paris, in the year 1614.

reference to noble families, was, upon the whole, peculiar to us, but common in some degree to France, from whence we derived several legal terms and usages; and where the next collateral heir to the crown was styled 'Monsieur.' We discover the epithet in Scotland at least at the beginning of the fifteenth century, when it was borne by the heirs-apparent of noblemen of the first class. The grandson and heir of that hoary aspirant, Walter Earl of Athol, who contrived the murder of James I., was called 'Robert, *Master* of Athole,' and other such instances can be given. The title, as will be seen, was separately conferred under the appellation of 'dignitatem Magistri de Forrester,' in a re-grant of the barony of Forrester, in 1651, upon the heirs-apparent of George Lord Forrester. Sometimes, however, in accordance also with French usage, the eldest son of a baron took the second baronial title of the family. Thus Alexander Elphinstone, the eldest son of Alexander Lord Elphinstone, in the reign of James VI., had the style of Lord Kildrummie, a feudal dignity of more recent constitution than Elphinstone."[1]

The mode of disposing charges in a shield of arms is a matter of considerable importance in the eyes of skilful

[1] *Peerage and Consistorial Law*, i. 113.

"With us," says Sir George Mackenzie, "the eldest sons of Lord Barons are designed Masters, as the Master of Ross, etc. And, of old, the uncles of Lords, after the death of their elder brother, though he left a son, were called Masters, till the nephew had a son: for which I know no other reason, but that because they wanted a title they took this. For their father being Lord, there was no degree below to take, as the elder sons of Earls took that of Lord. . . . The Grecian emperor was called κυριος, and the eldest son δεσποτης; and from this title of Master came Maship (*i.e.*, Mastership) amongst us, which was given to all such as had not a special title, as Lord, Sir, etc." —*Treatise on Precedency*, chap. viii.

heralds. Almost everybody knows that the dexter side of the escutcheon is regarded as more honourable than the sinister, just as the chief, or upper portion, takes precedence of the base, or lower part. According to Sir George Mackenzie, the preference of the dexter arises from "the general opinion that men have that the heart is in the *right* side (!), and that therefore the right side in man is strongest, and so he has made it the noblest side in all other things."[1] Unless they happen to be represented "affronté" (*i.e.*, facing the spectator, like the lion in the royal crest of Scotland), animate charges ought invariably to be turned towards the dexter.[2] In like manner, the proper position of certain inanimate objects appears to be regulated by heraldic practice. Thus, in the case of *bugle-horns* —a very frequent charge —the mouth-piece, at least in Scotland, is almost always turned towards the dexter.[3] No such inflexible rule appears to be followed in England, as it appears, from the Oxford *Glossary of Heraldry*, that "the mouth-piece is as often turned one way as the other." It must be borne in mind, however, that the rule in question is occasionally subject to considerable modification. Thus, in the words of Sir George Mackenzie, "when beasts are

[1] *Science of Heraldry*, chap. xix.

[2] Occasionally, however, a departure from this rule is to be met with on ancient buildings and elsewhere. Thus, the lion of Scotland is represented contourné, or turned towards the sinister, on a shield surmounting the south doorway of Melrose Abbey; and the same arrangement occurs in one of the escutcheons on the altar-piece at Holyrood, to which we have already referred—(*supra*, p. 210).

[3] A slight departure from this arrangement occurs in the escutcheon of Abbot Hunter (*supra*, p. 265), where the mouth-pieces of the two bugle-horns in chief point towards each other, that of the horn in base, however, being turned to the dexter side of the shield.

to be painted upon banners, the noblest position is to look to the staff, because that is the support of the banner; if upon houses that have chimneys, the noblest position is to look to the fire, because generally the worthiest persons are placed next to the fire; if there be no chimney, the noblest posture is to be placed looking from the door; if upon caparisons, they ought to look to the head of the horse, or beast that bears them."[1]

In former times, it appears to have been an accepted rule among heralds that illegitimate children should not bear either the arms or the surname of their reputed fathers. The usual practice was for such persons either to carry the bearings "which they got from the sovereign, or those of their mothers or wives, being noble."[2] Thus, William Longespée, natural son of Henry II. by "Fair Rosamond," displayed a long sword upon his seal, with reference to his name; and after his marriage to the daughter and heiress of D'Eureux, Earl of Salisbury (in which title he was confirmed by Richard I.), he took the arms of his wife, viz., six white lioncels on an azure field. In like manner, Robert, natural son of William the Lion, on his marriage to the heiress of Lundin of that Ilk, is said to have assumed the name and arms of that family.[3] Towards the beginning of the fifteenth century, however, it became the practice, all over Europe, for illegitimate children either to alter the position of the

[1] *Science of Heraldry*, chap. xix.

[2] Nisbet's *System of Heraldry*, i. 107.

[3] The seal of this Robert de Lundres (*c.* 1165) exhibits a knight on horseback, in a suit of mascled armour, with a sword in his right hand, and an *uncharged* shield on his left arm.—Laing's *Catalogue*, No. 531.

charges in their paternal escutcheon, or to debruise such charges with certain conspicuous marks, termed *maculæ natalium*, in order that they might be distinguished from lawful issue. Accordingly, one of the natural sons of Philip the Good, Duke of Burgundy, carried his father's arms "coupé en chef et en pointe," *i.e.*, the upper and lower parts of the escutcheon were left blank, and the bearings placed fesswise; while another son bore the charges in bend, and a third in chevron. A somewhat similar course was followed by John de Beaufort, the eldest natural son of John of Gaunt, who originally bore party per pale, *argent* and *azure* (the colours of the House of Lancaster), on a bend *dexter*, the three lions of England, with a label of three points charged with fleurs-de-lis. In like manner, his kinsman, Sir Roger de Clarendon, illegitimate son of the Black Prince, placed three separate ostrich feathers—the cognizance of his illustrious father—on a similar bend, the pen of each feather being fixed in a scroll. In Brabant, Flanders, and various parts of Germany, illegitimate children appear to have sometimes carried their paternal arms in a *canton*, either dexter or sinister, the rest of the escutcheon being left entirely blank.

Christyn specifies several other kinds of differences used by unlawful issue, but, in recent times, the most frequent marks of illegitimacy has been the *baton*, or *bastard-bar*, which at first appears to have extended diagonally across the entire shield, as on the seal of John Home of Hilton, natural son of Alexander Lord Home, Great Chamberlain of Scotland in the reign of James IV.

The position of the baton does not appear to have been uniform, as it occasionally crossed the escutcheon from right to left; but the usual arrangement was from left to right. It is generally represented by modern heralds as couped at each end (*i.e.*, cut short, so as not to touch the extremities of the escutcheon), and invariably occupies the same position as the bend *sinister*, of which it is about one-fourth in width. In this form, it has been specially assigned in England, since the fifteenth century, to the illegitimate issue of the royal family—one of the earliest instances of its occurrence being in the achievement of Arthur Plantagenet, Viscount Lisle, natural son of Edward IV. The couped baton is also borne, variously differenced, by all the illegitimate descendants of Charles II., being white in the escutcheon of the Duke of Buccleuch, compony *argent* and *azure* in that of the Duke of Grafton, and red (charged with three roses) in the coat of the Duke of St. Albans. Charles Somerset, Earl of Worcester, natural son of Henry Beaufort, third Duke of Somerset, and ancestor of the present Duke of Beaufort, bore his paternal arms debruised with a silver baton; but his eldest son, Henry Earl of Worcester, discarded the baton, and placed the Beaufort arms upon a fess.

According to Menestrier, a bastard cannot cancel or alter the baton without the consent of the chief of the family, unless he carries his arms in an oval escutcheon, called a cartouch or false shield; but the *son* of a bastard, born in lawful marriage, may use the arms of his father and mother quarterly, the baton-sinister being

placed on the paternal quarters. "As for the continuance of this mark of illegitimation in arms," says Nisbet, "some are of opinion that it should always continue with the bastard's descendants by lawful marriages, until the sovereign or chief of the family dispense with it. . . . The general opinion, however (he continues), is that the bastard-bar, after three lawful generations, may be borne to the right, or omitted without the sovereign's consent, and in place thereof some remote mark of cadency added."[1]

On Scottish seals of the sixteenth century, a *bend* appears to be a more frequent mark of illegitimacy than a baton. Thus, in the second and third quarters of the shield on the seal of James Stewart, Earl of Moray, natural son of James IV. (1520), the arms of Scotland are surmounted by a bend sinister, which is also placed over the three pales on the seal of Andrew Lundin, "portioner of Lambinethame" (1575), whose status, however, does not appear.[2] Again, in the first and fourth quarters of the escutcheon on the seal of James Stewart, Earl of Moray and Regent of Scotland, natural son of James V. (1567), the arms of Scotland are debruised by a bend *dexter*, which we also find surmounting his paternal ensigns (three cinquefoils) on the seal of Sir James Hamilton of Finnart, commonly called the "Bastard of Arran" (1528).[3] In like manner, a dexter bend or bendlet, deeply *engrailed*, bruises the Scottish lion in the first and fourth quarters of the Regent's shield on

[1] *System of Heraldry*, i. 108.

[2] Laing's *Catalogue of Scottish Seals*, Nos. 807 and 552.

[3] *Ibid.* Nos. 808 and 402.

his monumental brass, to which we have already referred.[1] Nisbet supposes that, in the case of the Regent, the sinister traverse must have been dispensed with by Queen Mary; and adds that, in the escutcheon of the Moray family, the arms of Scotland have latterly been carried within a bordure compony, *argent* and *azure*.

The *bordure compony*, or gobonated, has, at certain periods, been carried as a mark of illegitimacy, both in England and Scotland, while in France it has always been used as an ordinary mark of cadency by the younger *lawful* children. After the passing of the Act 20 Richard II., by which the children of John of Gaunt by Katherine Swinford were legitimated, the eldest son, John de Beaufort, to whom we have already referred, bore the royal arms within a bordure compony, *argent* and *azure;* while Thomas, the second son, carried the same coat, with the addition of a fleur-de-lis upon each of the blue divisions of the bordure. Mr. Montagu remarks that "as the border gobonée was assumed by them (or assigned to them) after the Act of legitimation, it is probable that such border was not at that period a mark of spurious descent, though it subsequently became so, at least in England."[2] In like manner, according to Nisbet, "the bordure gobonated, or componé, is now a mark of bastardy in Britain, *by our late practices;*" and the same author, in noticing the change in the arms of the Lundins of that Ilk, to which we have already referred,[3] says that "they took the arms of Scotland, within a bordure gobonated, *argent* and *azure*, as the

[1] *Supra*, p. 233. [2] *Study of Heraldry*, p. 43. [3] *Supra*, p. 92.

natural sons of our kings, who have been in use to take such bordures since the reign of King James II. of Scotland."[1] He elsewhere observes that "this bordure was of old honourable, but of late has fallen into disgrace; . . . so that it is become more suspicious of being a sign of illegitimation than any other figure in heraldry, except the baton sinister."[2] The same opinion is expressed by Sandford in his *Genealogical History of England*, where he speaks of "the ingratitude of those of this latter age" to the memory of certain illustrious families, by whom the bordure compony was regarded as an honourable figure, in converting it "to no other use than in distinguishing the illegitimate issue from those lawfully begotten." On the other hand, Spelman, in his notes on Nicolas Upton, asserts that both the baton sinister and the bordure gobonated were, of old, the marks of illegitimacy in England; and the same view is taken by Christyn in his *Jurisprudentia Heroica*.[3] In Scotland, however, prior to the middle of the fifteenth century, it would appear that the bordure compony was not an indication of illegitimate descent. In confirmation of his remarks, already quoted, Nisbet informs us that "the bordure compony was, of old, in great esteem, in differencing lawful sons with us; as by Sir William Wallace of Ellerslie, *gules*, a lion rampant *argent*, within a bordure compony *azure* and of the second."[4] He else-

[1] *System of Heraldry*, vol. ii. part iii. pp. 24, 25.

[2] *Ibid.* pp. 11, 12.

Examples of the bordure compony as an indication of illegitimate descent will be found in a recent volume of the Lyon Register. Vol. iv. pp. 85, 93 (1845-46).

[3] Art. 12, par. 17.

[4] *System of Heraldry*, ii. 12.

where mentions several families who carried their arms within a bordure compony, or counter-compony, without any allusion to their being of illegitimate descent—including the Dundases of Breast-mill, the Frasers of Phoppachy, the Burnets of Balleladies, and a branch of the Scotts of Bevelaw.[1] In addition to these examples we may mention the Irish Earls of Castle Stuart, and the Stewarts of Ardvorlich in Perthshire, respectively sprung from sons of Lord James Stewart, only surviving son of Murdoch, Duke of Albany, who both place their arms within a bordure compony, and whose pedigrees, we understand, are entirely unsullied by the stigma of bastardy.

In our notice of the Register of Genealogies kept at the Lyon Office,[2] incidental allusion was made to Scottish *Birth-brieves*, or *Bore-brieves* as they were usually styled. These documents had the sanction of the King, Privy-Council, or Chancellor, but neither their credit nor their authority was by any means high. According to Mr. Riddell, "they were mere *ex parte* proceedings, complaisantly winked at by the Government or the chief of the name, commonly in favour of an influential foreigner, and abound in error and misrepresentation."[3] The family of the great Colbert, Marquis of Seignelay, obtained one of these fabulous attestations which had, moreover, the interposition of an Act of Parliament[4] setting forth their descent from the Cuthberts of Castle-

[1] *System of Heraldry*, i. 173, 174.

[2] *Supra*, p. 82.

[3] *Answer to the "History of the Partition of the Lennox,"* p. 73.

[4] 1686, c. 49. See folio edition of the Scottish Acts, viii. 611.

hill, and connecting the French secretary with St. Cuthbert! About the same period, a similar document was prepared in favour of Don Joseph Cantelinus, Duke of Popoli, in which his descent was deduced "from the line of our royal predecessors, Kings and Queens of Scotland, by a continued course of pedigree for about 330 years before the incarnation of our blessed Saviour."[1] Some forty years previously (1648), the notorious Robert Menteith, "ex-minister of Duddingstone, Jesuit, Public Secretary, Canon of Paris, historian, etc.," obtained a bore-brief from Scotland, certifying his descent from the baronial house of Menteith, whose arms he boldly assumed; whereas, in point of fact, his father was an unknown Edinburgh burgess, who had netted salmon on the banks of the Forth, from which circumstance the "ex-minister" had humorously and unsuspectedly introduced himself to Cardinal Richelieu as one of the Menteiths of *Salmonet!* Mr. Riddell refers to an early instance of a bore-brief, in the year 1510, which seems to have been of a much more trustworthy character than those of a later period. On that occasion Francis Forrester, *alias* Pitlard, Herald to his most Christian Majesty, appeared before the Daily Council (then the supreme civil court), and stated that, although born in France, he was of

[1] The Duke's pedigree, however, is entirely eclipsed, in point of antiquity, by that of the Laird of Macnab, who repudiated the idea of being sprung from one of the sons of Noah. On being asked how he contrived to get over the "little difficulty" of the flood, the dignified Highlander coolly replied that his ancestor "had a coble o' his ain;" and to this day the family of Macnab, like the Watermen of London, carry an open boat in the base of their escutcheon.

Scottish descent, being sprung from the House of Corstorphine. His petition for inquiry into the matter was remitted to the Clerk-Register and certain Lords, who issued warrants to Sir Alexander Forrester of Corstorphine, and other respectable persons connected or acquainted with the family, to appear and depone as to the truth of the allegation. They accordingly found their way to Edinburgh, and, being sworn, declared that "Franciscum Forrester, alias Pitlard, Heraldum, de prefata domo recte descendisse . . . . prout ex vera scientia et relatione majorum suorum dedicerunt et noverunt, unde arma ejusdem domus et cognomen gestare meruit." After which procedure, due intimation of the fact was made to the lieges.[1]

The custom of displaying the arms of deceased persons of rank, in churches and on the exterior of their mansion houses, is now of rare occurrence in Scotland. Unlike the English *Hatchment*, which usually only exhibits the bearings of the deceased (single or impaled, according to circumstances), the Scottish *Funeral Escutcheon* is intended to afford evidence of the gentle blood of the person to whom it relates, in accordance with the practice adopted in France and Germany. It generally consists of a large black lozenge about six feet square, in the centre of which is painted, in proper colours, the complete achievement of the deceased, with all its exterior ornaments and badges of honour, surrounded by sixteen smaller escutcheons, containing the armorial bearings of the families from which he derives his descent the pa-

[1] See *Answer, ut supra*, p. 77.

ternal ensigns being placed on the right, and the maternal on the left side — viz., those of his father and mother, his two grandmothers, his four great-grandmothers, and his eight great-great-grandmothers. This is what is termed "complete nobility," or nobility of five descents; but, according to Nisbet, "the number of *eight* quarters (*i.e.*, nobility of four descents), is ordinarily used by our heralds, in funeral escutcheons and other monuments of honour."[1] Besides the initials of the name and title or designation of the deceased, four mort-heads are placed at the corners of the lozenge, the black interstices between the various shields being powdered with tears, reminding us of the well-known lines of a favourite English poet:—

> "The boast of heraldry, the pomp of power,
> And all that beauty, all that wealth e'er gave,
> Await alike the inevitable hour.
> The paths of glory lead but to the grave."[2]

The funeral escutcheon of John, first Duke of Atholl (*ob.* 1724), as engraved by Nisbet,[3] and that of Alexander, fourth Earl of Balcarres (who died about twenty years later), as engraved under the article "Heraldry" in the seventh edition of the *Encyclopædia Britannica*, afford examples of sixteen quarters. The same arrangement also appeared on the funeral achievement of the late Countess of Wemyss,[4] as displayed on the

[1] *System of Heraldry*, vol. ii. part iv. p. 143.

[2] Gray's *Elegy in a Country Churchyard*.

[3] *System of Heraldry*, vol. ii. part iv. p. 145.

[4] Margaret, daughter of Walter Campbell of Shawfield, and wife of Francis, seventh Earl of Wemyss.

family mansion in Queen Street, Edinburgh, in the year 1850. Sometimes, however, the English mode of merely exhibiting the bearings of the deceased, without any heraldic proof of descent, is adopted in Scotland, as in the case of the late Mr. Adam Urquhart, of the family of Craigston, Sheriff of Wigtonshire, on whose house in St. Colme Street, Edinburgh, an achievement of this description was affixed, after his death in 1860; and, at the present moment, the still more recent demise of "Albert the Good" is announced by the hatchments of a similar character, which surmount the entrances to Holyrood and Balmoral.

It was our intention to have noticed several other peculiarities in the Heraldry of Scotland, but our prescribed limits have already been greatly transgressed; and we shall draw these fragmentary observations to a close by a brief reference to the principal kinds of "goods and gear," and other objects, on which armorial ensigns have at different periods been displayed. In a preceding chapter we have discussed, in considerable detail, the heraldry of *Seals*, which unquestionably constitute the earliest and best record of armorial bearings. From the time of Edward III. in England and of David II. in Scotland, *Coins* afford valuable illustrations of regal heraldry;[1] and *Silver-plate* has long furnished ample scope for the exhibition of the engraver's taste in matters armorial.

[1] See chap. xxiv. of an admirable work just published—*A Manual of Heraldry, Historical and Popular*, by the Rev. Charles Boutell, M.A., author of several works on archæology—which we cordially recommend to the lovers of the "noble science," as well as to that more numerous class of persons who have yet to learn its interest and importance.

Books, Portraits, Banners, "Napery," and *Equipages,* are also well-known media of heraldic display, and, in more recent times, *Stationery, Seal-rings, Brooches,*[1] and other personal ornaments exhibit the wide-spread, and occasionally somewhat questionable patronage of the symbols of gentility. The universal mania for collecting "arms, crests, and monograms," in the shape of cameos and seal impressions, bids fair still further to extend the increasing interest in the "noble science;" and in the course of another generation, Sir Walter's strictures on the subject of heraldic ignorance, to which we referred in the introductory chapter, will be perused with unmixed astonishment. But to speak more gravely, independently of the display of armorial ensigns on what may be termed "moveable" possessions, their introduction as *architectural accessories* ought probably to be regarded as the best and most appropriate occasion for doing full justice to the multifarious devices and combinations which heraldry affords.[2] The suitableness of heraldic figures for both the external and internal decoration of churches and mansion houses is again beginning to be appreciated. In the words of Professor Innes, "the shape of the shield, of the knightly banner, and the squire's pennon, the helmet, the mantelling, the various accidences and outward orna-

[1] The silversmiths of the Scottish metropolis have long occupied a distinguished position. As skilful and accomplished seal-engravers, we may mention the names of Messrs. Butters, Murdoch, and Laing; while Messrs. Milne, Waddie, and Caldwell have given abundant evidence of their taste and ability in the execution of heraldic dies and monograms.

[2] See Boutell's *Manual,* chapters xxii. and xxiii., of which the latter is devoted to the subject of "Monumental Heraldry."

ments, are capable of the prettiest and most picturesque grouping, and form materials for architectural ornament, even independent of the gorgeous colours of the herald painter, which it would be a pity to abandon in a country where the material and the masons are so excellent as here in Scotland. In my opinion, a pannel of Craigleith stone, chiselled by an Edinburgh mason, forms as fine a key-stone of an arch, or pendant of a vaulted ceiling, as the finest marble in the duomo of Milan. But now (he very properly continues), if we are agreed as to the convenience of heraldic ornaments, is it not worth while to bestow a very little study on the '*science*'—as it used to be called—the science of heraldry? It is always a dangerous thing to use a language we are ignorant of; and though the Greek or Latin rashly stuck into our speeches or our pages may for a time escape learned criticism, yet the scholar comes down upon the quotation at last, and then the explosion tumbles down more than the poor bit of assumed learning, and does damage to the whole structure."[1]

The re-introduction of tile pavements and stained-glass windows affords the most ample scope for heraldic ornamentation, and will, we trust, at no very distant period, become a popular and important branch of modern art. In the windows of ecclesiastical edifices, as well as of halls and libraries in public buildings or private mansions, heraldic symbols form at once the

[1] *Introductory Address*, read at the annual meeting of the Architectural Institute of Scotland, 21st December 1860.—*Transactions of the Institute*, vol. v. part iv. p. 44.

most attractive and appropriate features ;[1] and the venerable pile of St. Kentigern, in the industrial metropolis of Scotland, already furnishes abundant evidence of the taste and talent which at present exist for the execution of such a pleasing style of decoration.

[1] See some very sensible suggestions on the subject in question in the article on "Glass," by Messrs. Cooper and Ballantyne, in the eighth edition of the *Encyclopædia Britannica*, vol. x. p. 669.

"What doth he get, who e'er prefers
The 'scutcheon of his ancestors ?—
This chimney-piece of gold or brass—
That coat-of-arms blazoned in glass ?
When these with time and age have end,
Thy prowess must thyself commend.
The smooty shadows of some one
Or other's trophies, carved in stone,
Defaced, are things to whet, not try
Thine own heroicism by.
Forecast how much thy merit's score
Falls short of those that went before ;
By so much art thou in arrear,
And stain'st gentility (I fear).
True nobleness doth those alone engage,
Who can add virtues to their parentage."—

Otia Sacra, by MILDMAY, EARL OF WESTMORLAND, 1648.

APPENDIX.

APPENDIX.

No. I.

NOTICES OF THE LYON KINGS-OF-ARMS,

FROM THE MIDDLE OF THE FIFTEENTH CENTURY.

[The following notices of the Lyon Kings-of-Arms—of whom, strange to state, no record is to be found at the Lyon Office—have been carefully prepared, under the belief that they will prove interesting. For a good deal of the information, the Author is indebted to his obliging friend, Mr. David Laing, of the Signet Library, and also to the labours of an anonymous writer in that useful periodical, *Notes and Queries*.

It is somewhat remarkable that of the twenty Lyon Kings here noticed, no fewer than *ten* were connected with the "Kingdom" of Fife, viz., four Lindsays, two Erskines, Nairne, Forman, Balfour, and Durham.]

1. Alexander Nairne of Saintfoord (St. Fort), Co. Fife—1437-60.

Held the office, according to Sir Robert Sibbald, during the reign of James II. (History of Fife and Kinross, 8vo edit. p. 263.) He also appears to have been Comptroller of the Household. (Douglas' Peerage, ii. 279.) "Alexander Nairne de Sandforde, armiger" (without any special designation), is included in various safe-conducts to England, between 1446 and 1452. (Rotuli Scotiæ, vol. ii. 329*b*, 344-5*a*, 358*a*.) The estate of Sandford appears, from the printed Retours, to have been in the possession of the Nairne family towards the end of the seventeenth century:—"Jan. 11, 1670. Alexander Nairne de Sanctfuird, *hæres* Domini Thomæ Nairne de Sanctfuird, *patris*."

2. Duncan Dundas of Newliston, Co. Linlithgow—1450-90.

Third son of James Dundas of that Ilk, by his first wife (name unknown); or, according to another authority, second son of Sir James Dundas of Fingask, by Elizabeth, daughter of Lord Caledon. "A man of great parts." Held the office, according to Sir Robert Douglas, in the reigns of James II. and III. (Baronage of Scotland, p. 176), and was employed in State negotiations between 1453 and 1484. Safe-conducts to "Duncan Dundas de Scotia, armiger," occur between 1451 and 1485. The "Leo Armorum Rex" mentioned in the Rolls, in 1485, appears to have been a different person from Dundas, but the word "et" between the title and his name may be a mistake in the record. He is referred to as Lyon King in Lord Strathallan's Genealogie of the House of Drummond (p. 133) in connexion with the year 1484, and in Douglas' Baronage, is said to have died between that year and 1488. His son is mentioned as his heir in 1492 (Acta Dom. Concilii). In the existing volume of Treasurer's Accounts (temp. Jac. III.), we find a sum paid to the "Lyon Herald" on his journey to London in October 1473, and again in May 1474; also in October 1474 to the "Lyon King-of-Arms"—no name, however, being given in either case. Mention is also made, in the same Accounts, of "Unicorn" and "Snadown" Heralds.

3. Henry Thomson—1504-1512.

In the Canongate Protocol Books, sasines are recorded in favour of Thomson and Cristina Dowglas, his spouse, dated 11th April 1504, and 2d March 1505-6. That he was not involved in the calamity at Flodden (1513) appears from a deed, dated 15th December 1512, in favour of his nephew, "Johannes Thomson, filius fratris et *hæres quondam Henrici Thomson*, alias Leonis Regis Armorum." Christina Dowglas is described in the Privy Seal Register as the "relict of umq^le^ Lyon King-of-Armes," 26th January 1513-14.

4. Sir William Cumyng of Inverallochy, Co. Aberdeen—*c.* 1512.

Second son of William Cumyng of Culter and Inverallochy (?), by Elizabeth, daughter of Sir William Meldrum of Fyvie, and fourth in descent from Jardine, second son of William Cumyng, Earl of Buchan, who got the lands of Inverallochy from his father in the year 1270. (Nisbet's Heraldry, ii. Appendix, p. 57). Sir William appears to have

held the office of Marchmont Herald in the year 1499 (Reg. Secreti Sigilli) ; and the lands of Innerlochy were granted to him and Margaret Hay, his spouse, by a charter under the Great Seal, dated 18th January 1503-4. He was knighted in 1507, and in a charter of glebe lands in favour of John Quhyte (31st January 1513), he is described as "circumspectus vir Will^ms^ Cumyn de Innerlochy, Rex Armorum supremi domini nostri Regis." (General Hutton's Transcripts, Adv. Lib.) His character of "circumspectus" (canny) is thus referred to by Bishop Leslie, in connexion with the year 1513 :—"Leo fecialis Angli Regis responsum *sapienter eludit.*" (History of Scotland, 1578, p. 361.) In a deed dated 17th July 1514, he is styled "Willelmus Cumyng de Innerallochy miles, alias Leo Rex Armorum ;" and again, in 1518, he is designed "Lioun King-of-Armes."

The following curious account of Cumyng's insult by Lord Drummond, in the year 1515 (*supra*, p. 29), is from the Genealogie of the House of Drummond, compiled by the first Viscount Strathallan in 1681, and printed about thirty years ago :—"John Lord Drummond was a great promoter of the match betwixt his own grandchild, Archibald Earle of Angus, and the widdow Queen of King James the Fourth, Margaret Teudores ; for he caused his own brother, Master Walter Drummond's sone, Mr. John Drummond, dean of Dumblane and person of Kinnowl, solemnize the matrimonial bond in the Kirk of Kinnowl in the year 1514. Bot this marriage begot such jealousie in the rulers of the State, that the Earle of Angus was cited to appear before the Council, and Sir William Cummin of Inneralochy, Knight, Lyon King-at-Armes, appointed to deliver the charge ; in doeing whereof, he seemed to the Lord Drummond to have approached the Earle with more boldness than discretion, for which he (Lord D.) gave the Lyon a box on the ear ; whereof he complained to John Duke of Albany, then newly made Governor to King James the Fifth, and the Governor, to give ane example of his justice at his first entry to his new office, caused imprison the Lord Drummond's person in the Castle of Blackness, and forfault his estate to the Crown for his rashness. Bot the Duke considering, after information, what a fyne man the Lord was, and how strongly allyed with most of the great families in the nation, wes well pleased that the Queen-mother and three Estates of Parliament should interceed for him ; so he was soone restored to his libbertie and fortune."

Lord Drummond died in 1519, ætat. 81.

5. Sir David Lindsay of the Mount, Co. Fife—*c.* 1530.

Born 1490. Great-grandson of Andrew Lindsay of Garleton, in East Lothian, who was a natural son of William Lindsay of the Byres. Author of the oldest Armorial Register in Scotland; blazoned in 1542, and now in the Library of the Faculty of Advocates (*supra*, pp. 42, 69). In an entry in one of the Protocol Books of Haddington, dated 4th January 1529, Lindsay is described as acting "nomine et ex parte Leonis Regis Armorum," along with three others, who are specially designed Marchmont, Ross, and Ilay "Heralds" respectively. Possibly the office of Lyon was then vacant, and Sir David merely performing the duties *ad interim*. His regular appointment, however, is usually assigned to the year 1530. He appears to have died without issue about the year 1555, when he was succeeded in the estate of the Mount by his brother Alexander, father of Sir David Lindsay, who was appointed Lyon King in 1591. Celebrated as a poet and a satirist, he has been termed the "Scottish Aristophanes;" and, besides being Lyon King-at-Arms under James v., he was "the *herald*, in a higher sense, of almost every improvement, civil and ecclesiastical, that took place in Scotland during the succeeding centuries. . . . His works, with the national epics, Barbour's 'Bruce' and Blind Harry's 'Wallace,' formed, till very recently, the poetical library of every cottage north of the Tweed;" and the well-known saying, "It 's no between the brods (boards) o' Davie Lindsay," implies that not even Sir David, whom almost nothing escapes, has noticed the matter in question.

In his Moral Dialogue, published in 1564, Dr. Boleyn (brother of Queen Anne), who had visited Scotland, after describing Chaucer and Lydgate, thus paints the Scottish King-at-Arms:—"Nexte theim, in a blacke chaine of gette stone, in a coate of armes, satte an anciente Knight, in orange-tawnie, as one forsaken: bearyng upon his breast a *white* lion,[1] with a crown of riche golde on his hedde: his name was Sir Davie Linse uppon the Mounte, with a hammer of strong steele in his hande, breakyng asonder the counterfeicte Crosse-Kaies of Rome, forged by Antichriste. And this good Knight of Scotlande saide to Englande the elder brother, and Scotlande the younger—

[1] Dr. Boleyn is not the only Englishman who substitutes *argent* for *gules* in describing the Lion of Scotland. A similar mistake was made, about two years ago, by a writer in the *Times*, in the course of his critique upon Mr. Stirling of Keir's Championship of the Scottish Universities.

'*Habitare fratres in unum*,
Is a blesfull thyng;
One God, one Faith, one Baptisme pure,
One Lawe, one Lande, one Kyng.'"

—See Chalmers' Life and Works of Sir David Lindsay, vol. i.; Tytler's Scottish Worthies, vol. iii. p. 191; and Lord Lindsay's Lives of the Lindsays, vol. i. p. 207.

6. Sir Robert Forman of Luthrie, Co. Fife—*c.* 1555.

From the following entry in the Lord High Treasurer's Accounts, under date March 24, 1540, it would appear that Forman was appointed a *Pursuivant* in that year:—"*Item*, gevin to Maister Robert Forman to by him ane Coit-armour, at his creatioun Persewant, at the Kingis command. . . . *xli.*" He filled the office of Ross *Herald* in 1551, and in that capacity, on the 7th of May 1552, he was "direct fra the Counsale with certaine articulis to be schawand to the King of France and fra him to the Empriour." The same day the Treasurer paid him the sum of £400 "to be his expensis in his journay." He was appointed to the office of Lyon-King on the death of Lindsay in 1555, and is mentioned under that title in the "Diurnal of Occurrents," in 1563. Buchanan also thus refers to him as acting under the instructions of the Regent in 1559:—"Misit Robertum Formannum, principem fecialem (vulgus Regem Armorum vocat), cum his mandatis," etc. (History of Scotland, Bk. xvi. chap. xliii.)

According to a MS. in the Advocates' Library (A 2. 18), Forman "was allowed his fee by Queen Mary, out of the lands of Rathellet, which the Lyon King ever since has possessed; being the King's propertie within the Stewartry of Fyffe." He held the office of Lyon-King till 1567, but does not appear to have died till several years afterwards. On the 18th of February 1594, John Forman, Rothesay Herald, was served heir in general of his father "Domini Roberti Forman de Luchrie, militis, Leonis Regis Armorum." (Will of Dame Elizabeth Creichtoun, who died in May 1594, spouse of umquhile Sir Robert Forman, Lyon Herald, in Edinburgh Conf. Testaments, 1596.)

7. Sir William Stewart—1567-78 (20th February).

Formerly Ross Herald. Within six months after his appointment, he was deprived of the office of Lyon-King, being "transported from

Edinburgh Castle to Dunbrittane, and ther committed to closse prissone, for conspyring to take the Regent's lyffe by sorcery and necromancey, for which he was put to death." (Balfour's Annals, i. 345. See also Birrel's Diary, p. 17.) He was burnt at St. Andrews in August 1569, along with Paris, one of the supposed devisers of Darnley's death, on a charge of witchcraft, his real offence, however, being opposition to the faction of the Regent, and loyalty to Queen Mary. His execution is referred to, a fortnight after its occurrence, in a letter from Lord Hunsdon to Sir William Cecil.

8. Sir David Lindsay (II.) of Rathillet, Co. Fife—1568 (22d August).

Youngest brother of Sir David of the Mount (No. 5.), probably by a different mother. Previously and successively Dingwall *Pursuivant* and (1561) Rothesay *Herald*. He was inaugurated as Lyon-King with great solemnity, about three weeks after his appointment, in the presence of the Regent and most of the nobility.[1] He is described as "Sir David Lindesay of Lucheris Kny[t] Liand King of Armes," in a royal letter under the Privy Seal, dated Holyroodhouse, 14th October 1580. He died in 1591.

9. Sir David Lindsay (III.) of the Mount, Co. Fife—1591.

Son of Alexander Lindsay of the Mount, and nephew of two former Lyon-Kings (Nos. 5 and 8). He was appointed, by commission, on Christmas-day 1591, and enthroned on Sunday, 2d May 1592, James VI. crowning him with the ancient diadem of Scotland, which was used before the sovereigns of that kingdom assumed the close crown. (Great Seal Rec. Book 37, MS. Adv. Lib.) At the coronation of James VI. in 1603, he informed Sir William Segar, Garter King at Arms, that, on the day of his inauguration, he dined with the King, having the crown on his head. On the 31st of March of the same year, he proclaimed James VI. King of England, in the presence of the nobility and of Sir James Elphinstone, Secretary of State. (Birrel's Diary, p. 68.) A volume of his collections, dated 1586, is among the heraldic and genealogical MSS. in the Advocates' Library. In 1621, he resigned the office of Lyon King in favour of his son-in-law, and died two years afterwards, without male issue.

[1] For the old oath of the Lyon King, see Nisbet's *System of Heraldry*, vol. ii. part iv. p. 167.

10. Sir Jerome Lindsay of Dunino and Annatland, Co. Fife—1621 (June 27).

Born about the year 1562. Son of David Lindsay, first Protestant Minister of Leith, and afterwards Bishop of Ross (who baptized King Charles I.), and great-grandson of Walter Lindsay Younger of Edzell, who fell at Flodden in 1513. He was educated at St. Andrews, where he graduated as Master of Arts. His first wife was Margaret, daughter of Mr. John Colville (who died before 10th May 1603), and his second, Agnes, eldest daughter and co-heir of his predecessor in the office of Lyon King, in whose right he succeeded to the estate of the Mount, which his descendants possessed in a decayed condition till the year 1710, if not later. (The present representative of the Lindsays of of the Mount is settled in America.) The following quaint epitaph on Sir Jerome's daughter, Rachel, is from the pen of William Drummond of Hawthornden :—

"To the memorie of the vertuous gentlewoman Rachell Lindsay, Daughter of Sir Hierosme Lyndsay, Principall King of Armes, and wyfe to Lieutenant Colonell Barnard Lindsay, who dyed the . . . day of May, the year 1645, after shee had lived . . . yeeres.

The Daughter of a *King*, of princely partes,
In Beautie eminent, in vertues cheife,
Load-starre of loue, and load-stone of all hartes,
Her freindes and husbandes onlie joy, now griefe,
Enclosed lyes within this narrow graue,
Whose paragone no tymes, no climates haue.
Maritus Mœrens Posuit."[1]

Sir Jerome resigned the office of Lyon King in 1630. He was Principal Commissary of Edinburgh, and died, at the age of 80, in 1642.

11. Sir James Balfour of Denmiln and Kinnaird, Co. Fife, Bart.—1630 (June 15).

So created in 1633, having been knighted May 2, 1630. He was born about the year 1600, and succeeded his father, Sir Michael, in the estate of Denmilu in 1652. He was four times married, his wives being daughters of Sir John Ayton of that Ilk, Sir James Durham of Pitkerrow, Sir James Arnot of Ferney, and Sir William Auchinleck of Balmanno. Sir James was crowned Lyon King by

[1] *Archæologia Scotica*, iv. 114.

George, Viscount Dupplin, Chancellor of Scotland (afterwards Earl of Kinnoull), as the Royal Commissioner for the ceremonial, in terms of the following warrant of Charles I. :—

"CHARLES R.

"Right trustie and wellbelovit cosine and Counsellour, We greit you weill. Having preferred our trustie and wellbelovit Sr James Balfour of Kynnaird Knight to be Our King of Armes in that Our Kingdome of Scotland, and being willing that no honnour belonging to that place and office sould be diminished and impaired, It is Our Royal pleasure and will that you, with all convenient diligence, inaugurat him with all ceremonie dew and requisite, In als goodlie forme and maner and als solemnly in all respects as ever ane Lyoune King of Armes has beene crowned hiertofore in that our said Kingdome, for doing quhairof these presents sall be to you a sufficient warrand. And We bid you farewell. Frome Our Court at Whitehall, the 20 day of Apryle 1630.

"From His Majesty to the Lord Chancellor
anent the Inauguration of the Lyoun."

In the year 1631, in consequence of a Royal Missive "anent the Lyon's immunity from taxations," a committee was appointed to consider the claim; and, in terms of their report, an Act of Exemption was passed in favour of Sir James Balfour. The account of his inauguration is preserved in the Advocates' Library, along with his numerous MSS. relative to Scottish Genealogy and Antiquities. Many of his Collections, however, were destroyed or dispersed by the English at the capture of Perth, to which place they had been conveyed for safety. Balfour discharged the duties of his office with great success till about the year 1654, when he was deprived of the dignity, on the usurpation of Cromwell, in consequence of his loyal principles. He died at Denmiln, three years afterwards, at the age of 57, and was interred at Abdie Church. (Lamont's Diary, p. 97.) A notice of Sir James Balfour is prefixed to his Annals of Scotland, published at Edinburgh, in four volumes 8vo, in 1824; and a selection of his Heraldic and Antiquarian Tracts was edited, in the year 1837, by Mr. James Maidment, Advocate.[1]

[1] For a detailed list of the various writings and collections of Sir James Balfour, see Sibbald's *Memoria Balfouriana*, pp. 11, *et seq.*

12. Sir James Campbell of Lawers, Co. Perth—1658 (13th May).

Appointed to the office of Lyon King-at-Arms by Oliver Cromwell.

13. Gilbert Stewart—1660 (21st August).

This gentleman appears to have been very soon superseded by Sir Alexander Durham of Largo. In the Ratification in favour of Sir Charles Erskine, Sir James Balfour is mentioned as the "immediate antecessor" of Sir Alexander Durham, Campbell and Stewart being, of course, entirely ignored by Charles II.

14. Sir Alexander Durham of Largo, Co. Fife—1660 (28th August).

Third son of Sir James Durham of Pitkerrow, Clerk of the Exchequer and Director of the Rolls, by a daughter of Hepburn of Humbie. For his loyal services, Durham was knighted by Charles II.; and besides being colonel of a regiment, he was Receiver of the Land-tax in Scotland. He died unmarried, at Edinburgh, in 1663, and was succeeded in the estate of Largo by Francis, son of his eldest brother James. The lands of Largo were acquired by Sir Alexander from the descendants of the celebrated Admiral Andrew Wood, who flourished during the reign of James III. Sir Alexander's death is thus recorded in Lamont's Diary (p. 161):—"1663. Apr. 27, being Moneday. Sr. Alex. Durhame of Largo, in Fyffe, the *Lord* Lyon, depairted out of this life att Edb., and was interred, the 1 of May 1663, att the Kirke of Aberlady, nire Lifnesse, his cusing's buriall-place, in the day-tyme."

15. Sir Charles Erskine of Cambo, Co. Fife, Bart.—1663.

Third son of Alexander, Viscount Fentoun (who died during the lifetime of his father, the Earl of Kellie), by Anne, eldest daughter of Alexander Seton, Earl of Dunfermline and Chancellor of Scotland. His grandfather was Thomas, first Earl of Kellie (nephew of John, Earl of Mar and Regent of Scotland), who with his own hand killed Alexander Ruthven, brother of the Earl of Gowrie, on the occasion of what is usually regarded as the treasonable attempt on King James VI., at Perth, in 1600. Erskine was installed as Lyon King-at-Arms, 25th September 1663, being crowned by the Earl of Rothes, who acted in the capacity of Royal Commissioner. He was created a Baronet of Nova Scotia

in 1666, purchased the barony of Cambo three years afterwards, and died in 1677. His patent of creation is printed by Sir George Mackenzie in his Science of Heraldry, chap. ii.; and the Ratification of the office of Lyon King-of-Arms (1672, c. 74), in favour of Sir Charles and his son, Sir Alexander, will be found in the folio edition of the Acts of the Scottish Parliament, vol. viii. p. 123.

16. Sir Alexander Erskine of Cambo, Co. Fife, Bart.—1677.

Son and successor of the preceding Lord Lyon, by Miss Barclay of London. Married his cousin-german Mary, eldest daughter of Alexander, third Earl of Kellie. Inaugurated as Lord Lyon at Holyrood, 27th July 1681, when James Duke of York (afterwards James vii.) officiated as High Commissioner for his brother, King Charles ii. The "Order" observed at his coronation forms Appendix No. x. of Arnot's History of Edinburgh.

In M'Cormick's Life of William Carstares, Secretary to King William iii., and afterwards Principal of the University of Edinburgh, we find the following anecdote, which, it is presumed, relates to Sir Alexander's son:—"Not long after Carstares' commitment to Edinburgh Castle, a boy about twelve years of age, son to Erskine of Cambo, Lieutenant-governor of the Castle, in the course of his rambles through the court, came to the grate of his apartment. As he always loved to amuse himself with young people, he went towards the grate, and began a conversation with him. The boy was captivated with the gentle and engaging manner in which he accosted him; and, mightily pleased with his first interview, he resolved to cultivate his new acquaintance. In a day or two after, he returned at the same hour to the grate; and, in the course of a few periodical visits of this kind, he conceived the strongest attachment to the prisoner; would sit by him for hours lamenting his unhappy situation, and telling a thousand stories to divert him. He would sometimes load his pockets with provisions of different sorts, and oblige him to partake with him. At other times he would purchase for him pen, ink, and paper; and, when he had wrote his letters, he would come at night and carry them to the Post Office himself. He was quite unhappy if Mr. Carstares had no errand to send him, or no favour to ask. This intimacy subsisted between them so long as Mr. Carstares continued in custody; and, when their intercourse was broken off by his release, the separation was attended with

tears on both sides. It was not many years before Mr. Carstares had an opportunity of testifying his gratitude. One of the first private favours he asked of King William was, that he would bestow the office of Lord Lyon upon his young friend, to whose humanity and kind offices he had owed his chief consolation in his deepest distress; and he obtained his request, with this additional compliment, that it should be hereditary in the family."[1] Accordingly, in the year 1702, Sir Alexander had a Commission, under the Great Seal, of the office of Lord Lyon King at-Arms to himself and his son, of which there was a Ratification in 1707 (c. 23.)—See Scottish Acts, xi. 465.

Owing to his participation in the "Rising" of 1715 (when he joined his kinsman, the Earl of Mar), the hereditary grant probably did not take effect. The date of his deprivation or resignation does not appear, but it is supposed to have been long before his death, which took place in 1735. (Douglas' Peerage, ii. 21.)

17. Alexander Brodie of that Ilk, Co. Elgin—1727 (6th July).

Son of George Brodie of Aslisk, by Emelia, daughter and co-heir of James Brodie of Brodie Born 1697. Married, in 1724, Mary Sleigh, and died 1754. (Nicolas' Orders of Knighthood, and Burke's Landed Gentry, 1849, iii. 38.)[2]

18. John Hooke-Campbell of Bangeston, Co. Pembroke—1754 (3d April).

Second son of John Campbell of Cawdor Castle, Nairnshire—a cadet of the House of Argyll, and ancestor of the Earls of Cawdor—by Mary, eldest daughter and co-heir of Lewis Pryse, Esquire. He was appointed Lord Lyon jointly with his younger brother Alexander, a Lieutenant-Colonel in the Army, by whom, however, none of the duties of the

[1] *State Papers and Life of Carstares*, p. 22.

[2] Two other Lyon Kings are mentioned by Noble in his *History of the English College of Arms* (p. 407), as holding the office between Sir Alexander Erskine and the Laird of Brodie, viz., — *Cocherne* (Cochrane?) and *Alexander Drummond*; but neither of them appears in the list of Lords Lyon of the Order of the Thistle from 1687, as given in Nicolas' *Orders of Knighthood*, vol. iii., Appendix to "Thistle," xxxvi. As suggested by "A. S. A." in *Notes and Queries* (2d Series, v. 497), they may have filled the office of *Lyon-Depute*, probably between the incumbency of Robert Innes and John Dundas.—(See Appendix, No. ii.)

office were discharged. By his wife Eustacia, daughter and co-heir of Francis Basset of Heanton Court, Devonshire, Mr. Hooke-Campbell had three daughters. He resided chiefly at Bath, where he died, 8th September 1795, in consequence of a fall over the St. Vincent rocks on the Avon, whither it is supposed he had gone to gratify his favourite pursuit of sketching, in which he excelled. Having been predeceased by his brother Alexander, in 1785, the reversionary grant of the Lyonship in his favour did not, of course, take effect.

19. Robert-Auriol Drummond-Hay, ninth Earl of Kinnoull, etc., in the Peerage of Scotland, and Baron Hay of Pedwardine in that of Great Britain—1796 (26th May).

Born 1751. Eldest son of Robert Hay-Drummond, Archbishop of York, by Henrietta, daughter of Peter Auriol, Esquire, of London, and grandson of George-Henry Hay, seventh Earl of Kinnoull, and first Baron Hay of Pedwardine. Lord Kinnoull's Commission was in favour of himself, with remainder to his son Thomas-Robert, Viscount Dupplin, by whom he was accordingly succeeded, in the office of Lord Lyon, at his death in 1804.

20. Thomas-Robert Drummond-Hay, tenth Earl of Kinnoull, etc.—1804 (12th April).

Born 1785. Son of the preceding Lord Lyon, by Sarah, daughter and co-heir of the Right Hon. Thomas Harley, and grand-daughter of Edward, third Earl of Oxford. Lieutenant and Sheriff-Principal of the county of Perth. Married, in 1824, Louisa-Burton, second daughter of Admiral Sir Charles Rowley, Bart., G.C.B., by whom he has surviving issue, three sons and three daughters.

No. II.

LIST OF LYON-DEPUTES,

FROM THE END OF THE SEVENTEENTH CENTURY.

1. Robert Innes, Writer to the Signet (?)

Acting in 1681 at the coronation of Sir Alexander Erskine, Lord Lyon. (Arnot's History of Edinburgh, Appendix, No. x.)

2. John Dundas, Writer to the Signet.[1]

Father of David (?) Dundas of Duddingston, Co. Linlithgow. Appointed 1st February 1728.

3. Thomas Dundas, younger of Fingask, Co. Perth.

Appointed 18th June 1744.

4. Thomas Brodie, Writer to the Signet.

Appointed 7th September 1754.

5. Robert Boswell, Writer to the Signet.

Appointed 2d November 1770. Held the office of *Lyon-Clerk* as well as of Lyon-Depute. Mr. Boswell also acted as *interim* Lord Lyon, under a nomination from the Exchequer, from 17th December 1795 to 6th August 1796.

6. James Home of Linhouse, Co. Edinburgh, Writer to the Signet.

Appointed 8th August 1796. Acted both as Lyon-Depute and *Lyon-Clerk* from the year 1804.

7. David Clyne, Solicitor before the Supreme Courts.

Appointed *interim* Lyon-Depute 21st February 1819, on the death of Mr. Home. Also *interim* Lyon-Clerk.

8. George Tait, Advocate.

Appointed *interim* Lyon-Depute 24th April 1819. Mr. Tait was called to the Scottish Bar in 1807, and filled the office of Sheriff-Substitute of Mid-Lothian from 1820 to 1848, when he resigned.

9. George Clerk Craigie of Dumbarnie, Co. Perth, Advocate.

Appointed 1st April 1823. Born 1788. Called to the Scottish Bar 1810. Died 1845.

10. James Tytler of Woodhouselee, Co. Edinburgh, Writer to the Signet (1803).

Appointed *Joint* Depute with Mr. Craigie 2d June 1827. *Sole* Depute from 1845. Second son of Alexander Fraser-Tytler of Wood-

[1] See page 487, *note* 2.

houselee and Belnain, one of the Senators of the College of Justice, and brother of Patrick Fraser-Tytler, the historian of Scotland. Born 1780. Died 10th October 1862.

11. George Burnett, Advocate, of the family of Kemnay, Aberdeenshire.

Appointed 9th February 1863. Born 1822. Called to the Scottish Bar in 1845.

No. III.

PATENTS OF LYON KINGS-OF-ARMS.

1. Extract Commission in favour of Sir Jerome Lindsay as Lyon King of Arms, dated 8th November 1620, in the collection of ancient papers at Dalmahoy.

Our Souerane Lord Ordanes ane Lettre to be maid vnder his hienes grit seale in dew forme, Makand mentioun That his hienes excellent Maiestie Hauing gude prwfe and experience of the Literature, gude Lettres, abundance of Langwages, ingenious maneris, qualificatioun and abilitie of his hienes Louit Maister Jerome Lindesay of Annatland, for exerceing the office of his maist excellent Maiesties Lyoun King of Armes; and vnderstanding that the said office is now Vaikand in his Maiesties handis and at his hienes gift and dispositioun, Be demissioun of the samen maid in his hienes handis be Sir Dauid Lindesay of the Mount, Knicht, his Maiesties present Lyoun King of Armes, In fauouris of the said Mr. Jerome: Thairfore our said Souerane Lord with advyse and consent of the Lordis of his hienes Secreit Counsell of his Maiesties Kingdome of Scotland, his hienes Commissioneris, Hes nominat and presentit, and be the tenour heirof nominatis and presentis, the said Mr. Jerome Lindesay to the said office, And makis and constituitis him King of his maist excellent Maiesties Armes, Giveand, grantand, and disponand to him the said office to be bruikit, vsit, and possessit be him during all the dayes of his Lyftyme, with the honor titill and dignitie of ane Knicht; Ordaining him in altyme cuming during his Lyftyme to be callit, writtin, and intitulat Sir Jereme Lindesay of Annatland, Knicht, Lyoun King of his hienes Armes, Giveand and assigneand to him the sowme of Fourtie punds

vsuall money of this realme, to be zeirlie tane and vpliftit furth of the radiest fermes and dewties of the landis of Rathulet, with the pertinentis, Lyand within the Schirefdome of Fyiff, with all vther fies, casualities, and dewties belonging to the said office : To be bruikit and possessit be him zeirlie during his lyftyme, With powar to the said Mr. Jereme to vse and exerce, occupy, bruik, and possis the said place and office, with all honouris, stipeinds, commodities, privelidgis, and dewties belonging to the said office, and to convene before him and his brethering herauldis All and Sindrie members of the samen office and inferiour officeris at all tymes necessaris, and to try the qualificatiounis, fidelitie, honestie, and diligence, and to admit thame of new to thair offices as thaj sall find meit, or to depryve thame of the samen, according to his discretioun ; And to mak statutes and constitutiounis for observeing of the samen honorable office of Armes in the puritie and right ordour, And to imput panis vpoun the resisteris, contraveineris thairof and the samen panis to vplift and apply to his awin proper vse, And to reduce and repledge all and sindrie herauldis, maisseris, messingeris, and armour beareris arreistit, citat, or callit in law before quhatsumeuer Judges criminall, civile, or spiritual to the priveledges of his office and to the judgement of him and his brethering heraudis Cautioun de Colleraueh (*i.e.*, surety to Court) to offer and find for administratioun of Justice within terme of Law to all pairties persewaris, and with all and sindrie vtheris Liberties, commodities, profites, and easementes, and righteous pertinentis quhatsumeuer perteining or that righteouslie may be knawin to perteine to the said office, frielie, quyetlie, fullie, honorablie, weill and in peace, Sielyk and in the samen maner in all respectis as the said Sir Dauid Lindesay or ony of his predecessouris, Lyounis Kings of Armes, brukit the said office before, But (*i.e.*, without) ony Reuocatioun, obstacle, impediment, or aganecalling quhatsumeuir. Gevin at Newmarkat the aucht day of November 1620 yeiris. Sic Subscribitur, Al. Cancell^r Mar Thes^rus. Melros. George Hay. J. Murray Oliphant.

2. Patent of the Office of Lord Lyon King of Arms in favour of Robert-Auriol, ninth Earl of Kinnoull, with remainder to his son Thomas-Robert, Viscount Dupplin (afterwards tenth Earl of Kinnoull), dated 26th May 1796.

Georgius, Dei gratia, Magnæ Brittaniæ Franciæ et Hiberniæ Rex, Fidei

Defensor, Omnibus probis hominibus ad quos presentes Literæ nostræ pervenerint, salutem : Quandoquidem nos considerantes qualificationes et animi dotes fidelissimi et dilectissimi nostri consanguinei et Consiliarii Roberti Auriol Drummond Hay Comitis de Kinnoull Vicecomitis Dupplin et Domini Hay de Kinfauns in Scotia et Baronis Hay de Pedwarden in Anglia, et Thomæ Roberti Hay vulgo nuncupati Vicecomitis Dupplin, filii ejus natu maximi, ad fungendum et exequendum officium nostri Domini Leonis Fecialis Regis Armorum pro illa parte Regni nostri uniti Scotia vocata, nunc vacans et ad nostram Donationem existens, per decessum Joannis Campbell et Alexander Campbell Armigerorum, quibus idem officium ultimo concessum erat ; Igitur Sciatis nos, ex gratiosa voluntate nostra, Fecisse, Nominasse, et Ordinasse memoratos Robertum Auriol Drummond Hay Comitem de Kinnoull, et Thomam Robertum Hay vulgo nuncupatum Vicecomitem Dupplin, durantibus omnibus eorum vitæ diebus et diebus vitæ eorum superviventis, Dominum Leonem Nostrum Fecialem Regem Armorum, una cum Stilo et Titulo ad dictum officium spectantibus et cum eodem in illa parte Regni nostri uniti Scotia vocata usualiter habitis et potitis : Ac etiam nos pro nobis et nostris Regiis successoribus Damus et Concedimus dicto Roberto Auriol Drummond Hay Comiti De Kinnoull et Thomæ Roberto Hay vulgo nuncupato Vicecomiti Dupplin, durantibus omnibus eorum vitæ diebus durantibusque vitæ diebus eorum superviventis, secundum respectivos eorum interesse in dicto officio, nostram plenariam potestatem, libertatem, licentiam et auctoritatem Insignia Armoria personis virtute præditis et de nobis bene merentibus, juxta ordines et constitutiones eatenus præscriptas, Dandi et Concedendi, una cum omnibus fœdis, juribus, libertatibus, privilegiis et emolumentis ad dictum officium spectantibus et cum eodem usualiter habitis et potitis, vel quæ quovis tempore præterito ad idem pertinuerunt aut quæ ullo modo ad dictum officium a die mortis Joannis Campbell Armigeri qui ejusdem ultimo potitus fuit pertinuerint, spectaverint, vel accreverint : Tenendum et Habendum dictum officium Nostri Domini Leonis Regis Armorum, a die mortis dicti Joannis Campbell qui ejusdem ultimo potitus fuit, per dictum Robertum Auriol Drummond Hay Comitem de Kinnoull durantibus omnibus ejus vitæ diebus, cum Stilo et Titulo et Salario et omnibus fœdis, juribus, libertatibus, privilegiis et emolumentis ad idem spectantibus et cum eodem usualiter habitis et potitis, vel quæ quovis tempore præterito ad dictum officium pertinuerunt, aut quæ ullo modo ad dictum officium a die mortis dicti

Joannis Campbell qui ejusdem ultimo potitus fuit pertinuerint, spectaverint vel accreverint, et a et post decessum dicti Roberti Auriol Drummond Hay Comitis de Kinnoull, vel resignationem ejus dicti Officii vel aliam sui interesse in eodem determinationem, tunc Tenendum et Habendum dictum officium Domini nostri Leonis Regis Armorum per dictum Thomam Robertum Hay vulgo nuncupatum Vicecomitem Dupplin durantibus omnibus ejus vitæ diebus, cum Stilo, Titulo et Salario et omnibus fœdis, juribus, libertatibus, privilegiis et emolumentis ad dictum officium spectantibus, et cum eodem usualiter habitis et potitis, vel quæ quovis tempore præterito ad idem pertinuerunt. Præterea Nos, ex Regia nostra benignitate et favore, Damus et Concedimus dicto Roberto Auriol Drummond Hay Comiti de Kinnoull et Thomæ Roberto Hay vulgo nuncupato Vicecomiti Dupplin, Salarium Sex Centum librarum Sterlinensium per annum a die mortis dicti Joannis Campbell qui ejusdem officii ultimo potitus fuit incipere, et per diem illis et eorum superstiti durantibus omnibus eorum vitæ diebus et vitæ diebus eorum superstitis quamdiu dictum officium habuerint et ejusdem potiti fuerint secundum in eodem eorum respectivos interesse solvendum et solubile ut supra, ex ulla nostrorum redituum parte in Scotia existentium ad usus civiles istius partis regni nostri uniti applicabilium apud eosdem terminos et similiter quasi alia Salaria in Stabilimento pro rebus civilibus in Scotia usualiter solvuntur. In cujus rei Testimonium, sigillum nostrum per Unionis tractatum custodiendum et in Scotia vice et loco magni Sigilli ejusdem utendum ordinatum præsentibus appendi mandavimus, apud Aulam nostram apud St. James's, Vigesimo sexto die mensis Maii millesimo septingentesimo nonagesimo sexto Regnique Nostri anno trigesimo sexto.

No. IV.

ACTS OF THE SCOTTISH PARLIAMENT

RELATIVE TO THE JURISDICTION OF THE LYON KING-OF-ARMS.

1.—1592, c. 125; fol. edit. c. 29 (Jac. VI.)

Concerning the Office of Lyoun King-of-Armes and his brether Herauldis.

Oure Souerane Lord and Estaitis of this present parliament, Considdering the greit abuse that hes bene amongis the leigis of this realme

in thair bearing of armes, vsurpand to thame selffis sic armes as belangis nocht vnto thame, sua that it can nocht be distinguischit be thair armes quha ar gentlemen of blude be thair antecessouris, Nor zit may it be decernit quhat gentlemen ar discendit of noble stok and linage, ffor remeid quhairof his hienes, with aduise of the saidis estaitis, hes geuin and grantit, and be this present act gevis and grantis full power and commissioun, to lyoun king-of-armes and his brether herauldis, To visite the haill armes of noblemen, baronis, and gentlemen borne and vsit within this realme, and to distinguische and discerne thame with congruent differences, and thairefter to matriculat tham in thair buikis and Registeris, And to put inhibitioun to all the commoun sort of people nocht worthie be the law of armes to beir ony signes armoriallis, That nane of thame presume or tak vpoun hand to beare or vse ony armes, in tyme cuming, vpoun ony thair insicht or houshald geir, vnder the pane of the escheating of the guidis and geir, sa oft as thay salbe fund contravenand this present act, quhaireuir the same armes salbe found grawin and paintit, to our souerane lordis vse ; And lykwayis vnder the pane of ane hundreth pundis to the vse of the said lyoun and his brether herauldis. And failzeing of payment thairof, That thay be incarcerat in the narrest prissone, Thairin to remane, vpoun thair awin chargis, during the plesour of the said Lyoun.

Item, Because charges of treason hes not bene execute and used, with sik solemnity and Officiares of Armes, as the weichtiness thereof requires : It is statute and ordained that Our Soveraine Lordis Thesaurer, and utheris directers of sik letters, deliver them in time cumming, to be execut be the ordinar Herauldes and Pursevantes, bearand coattes of armes, or Masers, to be used be thame, as of before ; and gif ony execution, under the paine of treason sall be execute utherwaies, declaris the execution to be null, and of nane availe.

Item, In consideration of the great abuse of Messengers and of Officiares of Armes within this Realme, quhilkis for the maist part ar not qualified for using of the said office, being admitted be extraordinar and importune suites, be quhais abuse the Liegis of this Realme ar heavily troubled and oppressed : Therefore it is statute and ordained, that the said King of Armes, be advise of the Lordis of Councell and Session, deprive and discharge all sik Officiares and Messengres of Armes, as he sall finde unworthy of the office, And take sicker soverty of the remanent, for observation of their Injunctiones in time cumming : With

power to the said King of Armes, with advise of the saids Lords, to enjoyne further necessar injunctiones to the saids messengers, for keeping of gude ordour in their offices : discharging him in the mean-time to admit ony maa officiares hereafter, quhil the haill messengers, presently bearing armes, be reduced be death or deprivation, to the number conteined in the Acte of Parliament, maid anent the confused number of officiares of armes.

Item, Because the jurisdiction of the Lyon King-of-Armes is not able to execute dew punishment upon all persones that sall happen to offend in the office of Armes : Therefore our Soveraine Lord, with advise of his three Estaites in Parliament, ordainis and commandis all civil Magistrats, as they sall be required be the King of Armes, or ony uthers in his name, to concur with him, to see the acts maid in his favours of his office put to dew execution in their jurisdictions : As alswa to concur with him, to the punishment and incarceration of all sik persons as sall usurp the bearing of his Majestie's Armes, after dew deprivation, under the pain of rebellion, and putting of the disobeyers to his Hienesse horne ; with certification to them, and they failzie, being required, letters sall be direct simpliciter to put them to the horne.

2.—1662, c. 53 (Car. II.)

Act in favours of the Lord Lyon King-at-Armes.

Forasmuch as King James the Sext of blessed memorie and his Estates of Parliament, Considering the great abuses have been commited in the beareing of Armes, Many vsurpeing to themselffs such armes as belongs not to them, So as it cannot be distinguished who are Gentlemen of blood, or descendit of noble lineadge, Thairfor did, be the 125 Act of Parliament, holden in Junii 1592, Give Commission to the Lyon King-at-Armes To visite the haill armes of Noblemen, Barrones, and Gentlemen, And to distinguish them with congruent differences, Which wer therafter to be insert in their books and registers ; And that none of his Maiesties subjects, save such as be the law of Armes are allowed, Should presume to bear or vse any armes, in tyme coneing, vpon any of thair goods, vnder the paine of esheat of thair goods on which these armes are caried, And one hundreth pund Scots to the Lyon : Lykeas, his Maiesties Royale father of happie memorie, Considering how much the honour and credite of the Nobility and Gentrie of this Kingdome

consisted in preserveing the noble office of Armes in carefull registrating of the Geneologies, to be patent to all posterity, or whom els it may concerne, And to that effect, vnderstanding that the casualties, fies, and dewties vnderwritten, Doth in all reason, law, and equity belong to the Lyon King-of-Armes, be vertew of his office, viz., at the funeralls and interments of each Duke, Dutches, or Dukes relict, Sex hundreth pund Scots; each Marques, Marchiones, or Marques relict, Four hundreth and fourscore punds; every Archbishop, Four hundreth punds; everie Earle or Countes, or Earles relict, Three hundreth and threescore punds; everie Viscount or Viscountesse, or Viscounts relict, Three hundreth and fourty punds; each Bishop, Three hundreth and fourty punds; each Lord of Parliament whatsumever, thair Ladies or relicts, Three hundreth punds: Which casualities and dewties abovewritten are to be paid, in all tyme comeing, by the saids Noblemen and Ladies, thair airs and executors, imediatly after the decease or funeralls of the defuncts, ffor entering in his booke the Certificats of thair matches and issues, with the propper Armes perteaneing to their familie, to remaine therin *ad futuram rei memoriam*, Did, be his letters-patent vnder the privy Seale of tuenty-sevent of Junij 1633, Confirme the then Lord Lyon and his successors in the saids fies, dueties, and casualities, With power to him to vplift the saids fies, and vse all execution for the same, As in the said Gift is more amplie exprest; And his Maiestie now considering how much the honor and interest of the Kingdome is concerned in the due exercise of the Office of the Lyon, and in the right disposall and carieing of Armes, Doth therfor, with advice and consent of his estates of Parliament, Renew, Ratifie, and Approve the Act of Parliament above mentioned and gift vnder his Maiesties privy Seall, and all other gifts and grants formerly granted and given in favours of the Lyon King-of-Armes and his successors, And ordaines them to be punctually observed and put in execution, Conform to the tenor thairof, in all tyme comeing; And furder, considering what disorders and confusions have arisen, and are dayly occasioned by the Vsurpation of Cadents, who, against all rules, assume to themselffs the armes of the cheeff house of the familie out of which they are descendit, And that other meau persones who can nowayes deryve thair succession from the families whose names they bear, As they have at first assumed the name, Doe therafter weare the coat of that name to which they pretend without any warrand or grund whatsumever, Doth

with advice foresaid Statute and Ordean that no younger brother or cadent of any familie presume to carie the armes of that familie, bot with such distinctions as shall be given be the Lyon King-of-Armes ; And that no man carie the Armes of any noble familie of his name, Except he make it appear to the Lyon (who is heirby declared to be the only Judge competent in such caces and debates) that he is descendit of that family ; And for right ordering all these confusions which have creept in in these latter tymes in the carieing of Armes, It is heirby ordained, That all Noblemen and Gentlemen shall have thair armes examined and renewed be the Lord Lyon and insert in his registers, and receave ane extract vnder his hand to be preserved be them, And that all such who, according to the addition of their honours, are to receave additions to their coats of Armes, That they receave the same from the Lyon, And whoever shall offer to assume any addition without his approbation, They are to be punished according to the Acts of Parliament made against the bearers of false armes : And that no Painters, Maisons, Goldsmiths, Wrights, Gravers or any other of that nature, take vpon them to grave, cut, paint, or carve any armes whatsoever, Bot such as are approven be the Lyon King-of-armes ; And remits to the Lords of his Maiesties privy Councill the further prosecution of this Act and the makeing of it effectuall, With power to them to make and set doun such acts and orders theranent and for modifieing of fies, wher the samen are not modified alreadie, and doeing every other thing which they shall think fit for the establishing of the Lyons Office and the right ordering of armes within this Kingdome ; Which acts and ordinances to be made be his Maiesties privy Councill, in pursueance of this present warrand, Shall be accompted, and are to have als much strenth as any Act of this or any other Parliament : And for the better mantaineing of the forsaid Office, his Maiestie and Estates of Parliament hes exeemed, And be thir presents exeemes the said Lyon King of Armes and his successors, their persons, lands, and moveables fra all taxations, stents, watchings, wardings, impositions reall or personall, for any cause or occasion whatsumever ; Dischargeing heirby all and sindrie his Maiesties liedges to trouble or molest him or them by the exaction of any such imposition above mentioned, Bot to be frie from this present and in all tyme comeing : And it is heirby declared, That the generall conception of this exemption shall nowayes derogat from the strenth and validitie thairof, Bot that, notwithstanding of the generality,

they shall enjoy the benefite of it as fully, amplie, and validlie, As if all the saids taxations and others imposed, or to be imposed, wer particularly therin specified.

3.—1663, c. 15 (Car. II.)

Act rescinding a former Act past in the last Session of Parliament, anent some fies acclamed as due to the Lord Lyon's Office.

The Estates of Parliament, haveing taken to consideration ane Act past in the Second session of Parliament, entituled Act in favours of the Lord Lyon, Doe find ane vnnecessar and heavy burding therby layd vpon his Maiesties leidges, both in the sumes therby appointed to be payd to the Lord Lyon, and in many other particulars mentioned in the said Act, And therfor his Maiestie, with advice and consent of his Estates of Parliament, Doth heirby Rescind and annull the said Act past in the second session of Parliament, entituled Act in favours of the Lord Lyon, and als the pretendit Gift mentioned therin, pretendit to be granted be his late Maiestie of blessed memorie to the former Lord Lyons bot never past the Sealls, And declares the said Act and Gift therinmentioned voyd and null *ab initio*, as if they had never been.

4.—1672, c. 21 ; fol. edit., c. 47 (Car. II.)

Act concerning the Priviledges of the Office of Lyon King-at-Armes.

Our Soveraigne Lord Considering that, albeit by the 125 Act of the 12 Parliament, holdin by his Maiesties grandfather in the yeir 1592, the usurpation of Armes by any of his Maiesties leidges without the authority of the Lyon King-of-Armes is expresly discharged ; And that, in order therto, Power and Commission is granted to the Lyon King of Armes, or his Deputes, to visite the whole Armes of Noblemen, Barrons, and Gentlemen, and to matriculate the same in their Registers, and to fine in One Hundreth pounds all others who shall unjustlie usurp Armes ; As also to Escheit all such goods and geir as shall have unwarrantable Armes ingraven on them : Yet, amongst the many irregularities of these late times, very many have assumed to themselvis Armes, who should bear none, and many of these who may in law bear, have assumed to themselvis the Armes of their cheiff, without distinctions, or Armes

which were not caried by them or their predicessors : Therfore His Maiestie, with advice and consent of his Estates of Parliament, Ratifies and Approves the forsaid Act of Parliament ; And for the more vigorous prosecution therof, Doth hereby statute and ordain that lettirs of publication of this present Act be direct to be execute at the mercat-cross of the heid Burghs of the Shires, Stewartries, Bailliaries of Royaltie and Regallitie, and Royall Burrowghs, chargeing all and sundry Prelates, Noblemen, Barons, and Gentlemen, who make vse of any Armes or Signes armoriall, within the space of one yeir aftir the said publication, to bring or send ane account of what Armes or Signes armoriall they are accustomed to vse ; and whither they be descendants of any familie the Armes of which familie they bear, and of what Brother of the ffamilie they are descended ; With Testificats from persones of Honour, Noblemen, or Gentlemen of qualitie, anent the verity of their having and vseing those Armes, and of their descent as aforsaid, to be delivered either to the Clerk of the Jurisdiction where the persones duells, or to the Lyon Clerk at his office in Edinburgh, at the option of the party, vpon their receipts *gratis* without paying anything therfore ; Which Receipt shall be a sufficient exoneration to them from being obleidged to produce again, to the effect that the Lyon King-of-Armes may distinguish the saids Armes with congruent differences, and may matriculat the same in his Bookes and Registers, and may give Armes to vertuous and well-deserving Persones, and Extracts of all Armes, expressing the blasoning of the Arms, vndir his hand and seall of office ; For which shall be payed to the Lyon the soume of Twentie merkes by every Prelat and Nobleman, and Ten merks be every Knight and Baron, and Five merkes by every other persone bearing Armes, and noe more : And his Maiestie hereby Dispensses with any penalties that may arise be this or any preceiding Act for bearing Armes befor the Proclamation to be issued herevpon : And it is Statute and Ordained, with consent forsaid, that the said Register shall be respected as the true and unrepeallable rule of all Armes and Bearings in Scotland, to remain with the Lyons office as a publict Register of the Kingdome, and to be transmitted to his Successors in all tyme comeing : And that whosoevir shall vse any other Armes any manner of way aftir the expireing of year and day from the date of the Proclamation to be issued herevpon, in maner forsaid, shall pay One Hundred pounds money *toties quoties* to the Lyon, and shall likewayes escheat to his Maiestie all the move-

able Goods and Geir vpon which the saids Armes are engraven or otherwise represented: And his Maiestie, with consent forsaid, Declaires that it is onlie allowed for Noblemen and Bishopes to subscrive by their titles; and that all others shall subscrive their Christned names, or the initiall letter therof with there sirnames, and may, if they please, adject the designations of their lands, prefixing the word "Of" to the saids designations: And the Lyon King-at-Armes and his Brethren are required to be carefull of informeing themselvis of the contraveiners heirof, and that they acquaint his Maiesties Councill therwith, who are hereby impowered to punish them as persones disobedient to, and contraveiners of the Law: It is likewise hereby Declaired that the Lyon and his Brethren Heraulds are judges in all such causes concerning the Malversation of Messingers in their office, and are to enjoy all other priviledges belonging to their office, which are secured to them by the lawes of this kingdome, and according to former practice.

No. V.

LIST OF SCOTTISH HERALDIC AND GENEALOGICAL MSS.

I.—Advocates' Library.

1. Heraldic Register of Sir David Lindsay of the Mount, Lyon King-at-Arms, 1530-55, folio (31. 4. 3.), published in facsimile by Mr. Laing of the Signet Library (*supra*, pp. 42, 69).

2. "XI Octob. 1586. Collectanea Domini Davidis Lindesay De Mounthe, Militis, Leonis Armorum Regis" (nephew of the compiler of the preceding MS.) The title is in the handwriting of Sir James Balfour. A folio of 129 leaves (of which 37 are blank), in a hand of the sixteenth century. On folio 61 is a subscription which may be that of Lindsay. The volume contains, *inter alia*:—

An award of the Constable of France regarding the precedency of Heralds and Sergeants at Arms, 1447.

The duties of Heralds, and a Treatise for their instruction on the subject of Coat Armour.

"*Liber Armorum.* How gentlemen salbe knauin from churles—of knighthood and gentlemen—of coats of arms and their blazoning." (31. 3. 20.)

3. Transcript of the greater portion of the preceding—small folio, in hand of the sixteenth century. Inscribed "Scrimzeour on Heraudry," and said in a note to have been written by "Mr. Jhon Scrymgeour of Myris, Maister of Warke to the King's Majestie." This copy belonged to Sir James Balfour. (31. 5. 2.)

4. Illuminated Arms by J. Sawers, Herald Painter in the reign of Charles I., 248 leaves folio. Containing the Bearings of the Scottish Nobility, rudely coloured, with a transcript (at the end) of Thomas Crawford's list of Scottish arms. In several instances the field of the escutcheons is *diapered*. Inscribed "Joseph Stacie, Ross Herald, his Book—cost me an hundreth pounds from John Saures wyff, 1654, and 20 po. more. I was created Herauld Sept^r 1663, yet living." (31. 4. 4.)[1]

5. Coats of arms of Sovereigns, Nobles, and Gentlemen of Scotland, partly taken from Sir David Lindsay's MS. A collection of the early part of the reign of James VI., rudely coloured, but of considerable value. Quarto. The Kings and Queens are represented *in propriâ personâ* with their arms blazoned on their robes. The bearings of the Nobility are accompanied by all the exterior ornaments, while, in the case of the Gentlemen, the shield is merely surmounted by a helmet and mantling. All the helmets have a quaint antique appearance. (31. 4. 2.)

6. Collection of illuminated Arms by Ethrington Martyn, P.H. (Pictor Heraldicus), 1794. Two volumes 4to, with an Index at the end of each. The illuminations are occasionally accompanied by critical observations, and in most cases are well executed. It appears from a note in vol. i. that most of the arms were collected from Seals, Draw-

[1] The following letter to Stacie from Sir James Balfour, Lyon King-of-Arms, is pasted on one of the boards of another folio MS. in the Advocates' Library (31. 4. 6.):—"Kynd Josephe, I receaued yours of y^e 28 of Maij y^e 5 of Junij By wich I pearceaue y^e progresse in y^e Earle of Lewin's bussiness. Y^e mistake is easily helped. . . . Blazon it *argent*, ane eagle displayed *vert*, langued and armed *gules*, altho' they beare it contrary wich you thought a mistake. Zet since yat Blason (wich I weill know) will not abyde y^e prouffe of forraine Heraulds I am weill pleased it be so blasoned as I have wrettin to you, and yat the Heighlanders keepe ther errors in Herauldrey at home in ther auen Shells (Shields?). Soe desyring you to make ane end of it, I will ever remane, your faithful frind, S^r JA. BALFOURE. Denmyle, 9 June 1656."

ings, Paintings, and MSS., and are not to be found in any publication. On the title page of vol. ii. it is stated that it contains "many scarce and uncommon Names." (31. 4. 1.)

7. "Account of the Office of a Herauld," small 4to. In a hand of the sixteenth century. Contains treatises on the laws and usages of Arms in Tournaments, etc. Formerly in the possession of Sir James Balfour, Lyon King, and at an earlier period the property of Peter Thomsoune, Ilay Herald. (31. 7. 20.)

8. Quarto volume, partly vellum and partly paper, bound in green velvet, containing, *inter alia*, "Pointes of worship in Armes," the Oath of Heralds, etc. A portion of the MS. is supposed to be as old as the thirteenth century. (32. 6. 9.)

9. "Account of the Office of Heraulds," 88 pp. folio. Containing numerous particulars regarding the ceremonies, styles, fees, etc, of Scottish and English Heralds, and apparently a transcript of another folio of 125 pp., in the hand of the seventeenth century, marked 31. 3. 18. (34. 3. 22.)

10. Certificate by the (13) Officers of the English College of Heralds, including Sir William Segar as "Garter," testifying that "James Balfour, Esquire, by and attour his insicht and knowledge in diverse languages, hes also singular good knowledge and experience in all antiquities and forraine histories, but especiall in these concerning the ilands of Great Britaine and Irland;" and also declaring "him to be ane expert and graduate herauld in blazing of cotts and armours, in searching of genealogies and descents, in mareschalling of funeralls, triumphs, and inaugurations, etc., and in all ceremonies whatsumever perteining to honour or armes." Each Herald signs under an illuminated shield bearing his own arms, the date being 4th December 1628. 12mo, in vellum binding. (13. 2. 6.)

11. "Genealogical and Heraldic Collections," 12mo. Scottish Surnames, with genealogies and arms, in alphabetical order, written about the time of James II. (13. 2. 10.)

12. Case titled "Ancient Rolls." Five parchment Rolls, of which one (No. 2) is a Roll of Arms neatly drawn in ink on heater shields (three in each row), the tinctures being indicated by initial letters. The names of the bearers are in the handwriting of Sir James Balfour, who has prefixed the following title:—"The Cotts of 267 Knights and Landed Gentlemen of the Kingdom of Scotland, as they were pre-

sented to our soverane Lady Marie, by the grace of God Queen of Scotland and Dowager of France, by Sir Robert Forman, Lyone King of Armes." No. 3 is a Roll, in Sir James Balfour's handwriting, of the Nobility of Scotland, "according to their precedency in this zeir of God 1633." (34. 4. 16.)

13. Crests, Mottos, and Supporters of the Scottish Nobility, 1631. In the handwriting of Sir James Balfour. Thin folio. (33. 2. 35.)

14. Folio Volume of Heraldic Shields, printed blank (9 on each page), a few of which are filled up with Scottish Coats of Arms by Sir James Balfour, the tinctures being indicated by initial letters. (33. 2. 27.)

15. "Coates of Armes of the Kings and Noble Families," by Sir James Balfour. Large folio, containing 548 illuminated shields, the bearings of the Sovereigns and Nobility of Scotland being at the end of the volume. (15. 1. 10.)

16. List of Scottish Surnames and Arms, in alphabetical order—narrow folio—in the handwriting of Sir James Balfour. (15. 1. 11.)

17. Rudely-coloured Coats-armorial of Scottish Kings, Nobles, and Gentlemen, by Workman (Herald in the reign of James VI.), whose numerous errors are noted by Sir James Balfour Folio. (31. 3. 5.)

18. Register of the Ceremonials at the Funerals of the Marquis of Hamilton, Lord Buccleuch, Earl of Kinnoull, Countess of Wigton, and Countess of Nithsdale, between 1625 and 1637. Thin folio, in the handwriting of Sir James Balfour. (33. 2. 11.)

19. Vellum quarto, in the hand of the 15th or beginning of the 16th century, formerly in the possession of Sir James Balfour, who has inscribed its contents (which are in Latin) on the first leaf, viz. :—

1. Bartolus de Saxo ferrato de signis et armis.
2. Nicolaus Uptone, Canonicus Sarum—De militia et nobilitate—De Nobilitate colorum in armis depictorum, etc.,—the latter treatises being illustrated by coloured shields of arms. (31. 6. 5.)

20. "Collection of the most remarkable Accounts that relate to the Families of Scotland, etc.; by Sir George Mackenzie of Roschaugh, His Majestie's Advocat." 481 pp. 8vo., in the handwriting of Robert Mylne. (34. 6. 8.)

21. Notices of the Families of Scotland, in alphabetical order, "drawn from their own charters, and other authentic writs."—Stated

in a note to be a copy by Sir George Mackenzie from Lord Carse's Collection; with additions by Mackenzie. (34. 3. 19.)

22. Collection of Patents and Birth-brieves in Latin (diplomata et literæ prosapiæ), from the time of James VI. to the reign of William III. Small quarto. (34. 6. 3.)

23. Genealogical and other collections, in the handwriting of Robert Mylne, including notes of charters, history of the family of Drummond, and "Ane Alphabetical Index of some of the Collections of Master Nisbet, Teacher of Herauldrie." Quarto. (34. 6. 9.)

24. "A Treaty of Surnames in general, but especially these of Scotland," by Sir James Balfour, Lyon King of Arms, 70 pp. folio. (33. 2. 28.)

25. "General Collections" concerning families in Scotland, from MS. Accounts, Writs, etc., 1750-51. Two large folio volumes, with the Arms and Initials of Walter Macfarlane stamped on the back of each. (35. 4. 8.)

26. "Crawford MSS. Baronage."—Numerous notices of Scottish families and churchmen, 399 pp. folio. (34. 3. 9.)

[Besides the above, there are several other MSS. in the handwriting of Sir James Balfour relative to Coronations, Royal Christenings, etc.]

II.—Lyon Office.

1. Small 4to volume containing 278 leaves, titled outside, "Old Manuscript of Blazons," and inside, "Workman's MS." The first 52 pages are occupied by a verbal blazon of the Arms of Foreign Potentates, Kings of Scotland, Knights, etc., followed by a series of rudely illuminated Arms, somewhat in the style of Sir David Lindsay's Register. The following note appears on page 1:—"The Blazons in ane old Illuminat Book belonging to Henry Frazer, Ross Herald and Painter, which formerly belonged to Joseph Stacie, 1654, and James Workman, 1623. This Book has been ane authentick Record in the reigns of Queen Mary and King James the Sixth."

2. 12mo volume, titled "Pont's Manuscript," inscribed "W. Smiton, Painter, 1780," at whose sale it was purchased by the Lord Lyon (Lord Kinnoull) in 1809. Probably a transcript, the handwriting bearing a resemblance to that of Robert Mylne. Its contents are as follows:—

1st, 29 pp. of coloured Shields (12 on each page), "being the arms of severall gentlemen, according to Sir James Balfour, Lo. Lyon."

2d, James Pont's Collection of the Blazons of the Nobility and Surnames in Scotland, 1624.[1]

3d, Tabular pedigrees of the Scottish Nobility, by Robert Porteous, Herald Painter, 1661. (See p. 509, *infra*.)

4th, Tabular pedigrees of Scottish Gentlemen.

5th, A Book of Retours.

3. Arms of the Nobility and Gentry of Scotland (Nobiles majores et minores), the former in the order of precedency, and the latter alphabetically arranged, 12mo, supposed to be in the handwriting of William Hamilton of Wishaw, ancestor of Lord Belhaven—(end of 17th century).

4 "Armorial Bearings of the Nobility and Landed Gentlemen of Scotland, by Sir Patrick Hume of Polwort, Barronet," 12mo. The date on the last written leaf is 1723.

5. Transcript from an original Heraldic MS. of Mr. Thomas Crawfurd, Professor of Mathematics, Edinburgh, who died about 1660, 49 pp. 12mo.

6. Rude illuminations, titled "Kings' and Nobilitys' Arms," small folio.

7. Small 12mo, described on the fly-leaf as "A Book of Heraldry," containing—

1st, Coloured Shields (engravings).

2d, "List of all the Gentlemen's Arms as they are matriculated in the Lyon Herald's Register Books of Scotland, keeped at the Lyon Office in Edinburgh preceding 1688—the Revolution year" (in alphabetical order).

8. Transcript of Collection of Genealogies by Sir George Mackenzie, folio.

9. Birth-Brieves of the Scottish Nobility (temp. Car. II.), with their arms illuminated, folio.

10. About half-a-dozen small folio volumes of Birth-Brieves (not authenticated), recovered from the private repository of a former officer of the Lyon Court in 1842.

[1] The "exactest copy" of this MS. was seen by Nisbet in the House of Seton, where Pont appears to have died.—*System of Heraldry*, i. 258.

III.—British Museum.

1. List of the Nobility of Scotland, with their Arms (Lansd. MS. 865, f. 46.), small folio, very much blotted.

2. Arms of the Nobility of Scotland, A.D. 1602 (Harl. MSS. 1482, f. 1.), folio. The first part is handsomely blazoned, while the latter portion consists of pen-and-ink drawings of arms.

3. Arms and Pedigrees of Scottish Nobility, 1606 (Harl. MSS. 1423), folio. Containing numerous sketches of arms and several pedigrees, all in good condition.

4. Pont's Collections of the names and arms of the second degree of gentry in Scotland (Sloane MS. 490), 12mo, very neatly arranged and well written.

5. Arms of the Nobility of Scotland (Cotton MS. Vesp. E. VIII. f. 29. Harl. MSS 1384, f. 79. 2120, ff. 3-7. Add. MSS. 17,537). 12mo, 4to and folio. Embracing pen and-ink drawings of arms, some very old fragments of miscellaneous MSS., "Irish, Scotish, and Yorkshire coates, with other outlandish armes," and a series of large coats of arms, carefully blazoned, with lists of Cadets on the opposite pages.

6. Arms and Effigies of some of the Scottish Kings, with arms of many of the Scottish Nobility (Harl. MSS. 115), 4to. Quaint drawings of the Kings and Queens of Scotland, from Malcolm Canmore to Mary, followed by the arms of the Nobility.

7. Arms, Crests, and Mottos of Scottish Nobility (Add. MSS. 6298, f. 145-152), folio. The first portion is parchment, in French, followed by various miscellaneous pieces, including coats of arms, etc.

8. Ordinary of Arms of Scottish Families, by Sir George Mackenzie (Harl. MSS. 3740), folio. The first part beautifully written, and the latter portion consisting of various MSS. in different hands.

9. An Ordinary of Arms of Scotland (Harl. MSS. 4732), small 4to. The arms are described not drawn. At the end of the volume is a short MS. entitled, "Petit traité des armories," with a few drawings of arms.

10. Arms of the Sovereigns and Nobility of Scotland, 1585 (Harl. MSS. 6101), small 4to. Similar to the latter portion of No. 5.

IV.—In Private Custody.

1. *David Laing, Esq., Signet Library, Edinburgh.*

(1.) Blaisôn of Arms of the Nobility of Scotland, by Robert Miln, Herald Painter, 158 leaves folio. Formerly in the possession of Mr.

Alexander Deuchar, Seal Engraver. The Arms are illuminated in engraved escutcheons, marked "Rot. Miln, Sculp."

(2.) The Public Register of the Armes and Bearings in Scotland, 1676, 250 pp. folio. From the collection of Mr. William Fraser, Seal Engraver, Edinburgh. Apparently a transcript of the Register in the Lyon Office.

(3.) A Note of the Arms of the Nobility of Scotland, and of the whole Surnames in Scotland, in order of Alphabet, by James Pont, 1624. 4to.

(4.) Blazons of Scottish Arms, drawn in a rude style during the latter half of the sixteenth century—the achievements of the Nobility being accompanied by Supporters—with an Index of Names by Alexander Deuchar, 4to. Formerly in the possession of Sir Patrick Walker.

(5.) Collection of armorial blazons from various sources, by Ethrington Martyn (Herald Painter), 1797. Small 8vo.

(6.) Heraldic collections by Mr. William Fraser, transcribed from early MSS., 7 vols. 4to.

2. *Charles S. Plummer, Esq. of Middlestead, Sunderland Hall, Selkirk.*

(1.) The Armorial Bearings of the Nobility and Gentry of Scotland, copied from Sir David Lindsay's MS., by W. Smiton, for Sir Walter Riddell of Glenriddel, folio.

(2.) Public Register of the Arms and Bearings in Scotland, 2 vols. 12mo, 1722. A Transcript of the original in the Lyon Office.

(3.) Arms of the Kings and Nobility of Scotland, folio.

(4.) The Arms of the Scots Peers, Illuminated, 4to.

(5.) The Blazoning of the Arms belonging to the Gentlemen within the Kingdom of Scotland that have matriculate their bearings in the Lyon Register, 12mo.

(6.) The Illuminated Book of Blasons, 4to.

3. *The Rev. Henry Wellesley, D.D., Principal of New Inn Hall, Oxford.*

(1.) The Armes of the Crowne of Scotland and the Nobilitie of the same, with their Crestes, Supporters, and Mottos, pp. 60. The

Quartered Coates of Scotland, pp. 61-66. The Single Coates of the Gentlemen of Scotland, pp. 67-78, folio. Sixteen Shields on each page, and the Arms neatly coloured, formerly in the possession of George Chalmers.

(2.) Arms of the Kings of Scotland and their Wives, with full-length portraits neatly drawn and coloured, followed by the Arms of the Nobility, folio. Only a few leaves of the Kings are left. Formerly in the possession of George Chalmers.

(3.) Arms of the Queens of Scotland (in lozenges), the Nobility, one to the page, and the Gentry, nine to the page, neatly tricked and coloured, 69 pp. folio. The following is inscribed on the first leaf :—"hec sunt arma Augustini Seneschalli, 1569," viz. a combination of the Stewart fess-checquy and the Royal Lion of Scotland, surmounted by a bend.

(4.) Illuminated Arms of the Kings, Nobility, and Gentry of Scotland, folio, much mutilated.

(5.) The Coats of the Lords of Scotland, with Crests and Supporters, elaborately illuminated in blank copperplate shields with mantlings and cartouches, richly bound, folio, 17th century. Apparently the *second* of two volumes, of which the first probably contained the bearings of the Sovereigns and Earls.

(6.) Illuminated Arms of the Sovereigns and Nobility of Scotland, of which the last of the former is thus inscribed :—"Marye marryed to her second husband the Lorde Darley, sonne to the Erle Lenex of Scotland, and hath isshew James the 6 that now is King of Scotland," 4to.

4. *The Earl of Dalhousie, Brechin Castle.*

"MS. Genealogies, 1674-76,"—the date being assigned by the late Mr. Chalmers of Aldbar from internal evidence,—267 pp. 8vo, very neatly written and in excellent condition, containing—

(1.) "The Genealogies of the Nobility of Scotland, present and extinct, collected from History, and some other records and reports of people."

(2.) The Badges of some of the Nobility of Scotland. (In addition to the Badge, which is usually the family crest, the supporters and motto are in most cases given.)

(3.) Lists of Chancellors, Treasurers, and other important officials.

(4.) Names of the Baronets, Barons, Knights, Lairds, and Chief Gentlemen in every Sheriffdom of Scotland.

5. John J. Chalmers, Esq. of Aldbar.

"R. Milne's MS. History of Scots Lairds." 2 vols. 12mo. The first vol. contains 176 pp., the families being arranged in alphabetical order, commencing with "Aberbuthnot," and ending with "Spotswood." The MS. is interleaved with engraved shields, two on each page, with the arms in colours, probably of a later date. The following is inscribed on the title-page of vol. i. :—"Arms of a number of antient families in Scotland, with a short historical account annexed, by Mr. Robert Milne, Keeper of the Lyon Records for Scotland. The second volume is by D. Deuchar, Seal Engraver." A considerable portion of vol. ii. is blank. It contains a leaf of old MS. coarsely illuminated, besides a few other leaves with coloured shields. It is dated 1790, and the title states that the new, as well as the old, patents are inserted.

Besides the MSS. specified in the preceding list, there are no doubt many others in private custody. The Duke of Sutherland is understood to have at least one fine heraldic MS. which was purchased at the sale of Mr. Deuchar's collection (see p. 281 *supra*); and along with many other curious and valuable papers, the late Mr. John Riddell, Advocate, possessed an Index of Blazons compiled by Robert Porteous, "Snaddoun Herauld," in 1661, and purchased from his widow, about three years later, by Joseph Stacie, Ross Herald, to whom we have already referred. The value of Porteous' Index was considered by Mr. Riddell to be very much enhanced in consequence of the subsequent conflagration of the then existing Lyon Records (see p. 71 *supra*).

At p. vi. of the Preface to his System of Heraldry, Nisbet gives a list of "old manuscripts and illuminated books of blazons," of which several appear to have been in his own possession, and to which he frequently refers. Besides Workman, Pont, and Balfour, the list embraces the names of James Esplin, Marchmont Herald, *c.* 1630, and George Ogilvie "a late herald with us."

No. VI.

ARMORIAL CONTROVERSY AT PERTH, IN 1312.

We have referred in the text (chap. iv. sect. 2) to one or two instances of armorial controversy in England. A case, which occurred in

Scotland at the commencement of the fourteenth century, is possessed of considerable interest. In the year 1312, a contest having arisen between Hugh Harding, an Englishman, and William de Seintlowe, a Scotchman, as to which of them had the right to a particular Coat of Arms: it was solemnly decided by duel at Perth, before King Robert the Bruce, as appears by the following letters patent:—

Robertus Dei Gratia Rex Scotiæ, Omnibus ad quos præsentes literæ pervenerint, salutem. Cum nos accepimus duellum apud nostram villam de Perthe, die confectionis præsentium, inter Hugonem Harding, Anglicum, appellantem, de armis de goules tribus leporariis de auro currentibus, collorec de B. et Willielmum de Seintlowe, Scotum, appellatum, eisdem armis sine differentia indutos: Quo quidem duello percusso, prædictus Willielmus se finaliter reddidit devictum, et prædicto Hugoni remisit ac relaxavit, et omnino de se et hæredibus suis, in perpetuum, prædicta arma, cum toto triumpho, honore, et victoria ore tenus, in audentia nostra. Quare nos, in solio nostro, tribunali regali sancti Patris, cum Magnatibus et Dominis, regni nostri personaliter sedentes, adjudicavimus et finaliter decretum dederimus, per præsentes, quod prædictus Hugo Harding, et hæredes sui, de cætero in perpetuum habeant et teneant, gaudeant et portent prædicta arma integraliter, absque calumpnia, perturbatione, contradictione, reclamatione, prædicti Willielmi, seu hæredum suorum. In cujus rei testimonium, has literas nostras fieri fecimus patentes, apud dictam villam nostram de Perthe, secundo die Aprilis, Anno regni nostri septimo annoque Domini millesimo trecentesimo et duodecimo.[1]

No. VII.

ARMORIAL PATENTS.

We have already given a specimen of an Early Scottish Patent of Arms (*supra*, p. 73), in favour of John, Lord Herries, in the year 1567. As examples of more recent Concessions, we shall here introduce (1.) a Grant by Sir Charles Erskine, Lyon King-of-Arms, about a hundred years later: and (2.) a specimen of the style adopted at the present time. A very early English Grant of arms will be found at p. 315 of

[1] *Nicolai Vptoni de studio militari*, etc. by Edoardus Bissæus, Notæ, p. 34.

Lower's *Curiosities of Heraldry*, the date being 1376 ; and another, dated 1542, is printed at p. 171 of Dallaway's *Heraldic Enquiries*. Several curious examples of Gifts and Bequests of Armorial Bearings are given by Edmondson in his *Complete Body of Heraldry*, vol. i. pp. 154-158.

1. Grant of Arms to the Royal Burgh of Aberdeen by Sir Charles Erskine of Cambo, Baronet, Lyon King-of-Arms.

To all and sundrie whom it effeirs. I Sir *Charles Areskine* of *Cambo*, Knight and Baronet, Lyon, King of Arms ; Considering, that by several Acts of Parliament, as well of Our dread Soveraign Lord, *Charles* the Second, By the Grace of God, King of *Scotland*, *England*, *France*, and *Ireland*, Defender of the Faith : as of His Majestie's Royal Predecessors : especially, by the twenty one Act of the third Session of this Current Parliament, I am impowered to visit the whole Arms and Bearings within this Kingdom, and to distinguish them, and marticulate the same in my Books and Registers, and to give Extracts of all Arms, expressing the Blazoning thereof, under my hand and seal of Office : And which Register, is by the fore-cited Act, ordained to be respected, as the true and unrepealable Rule of all Arms and Bearings in *Scotland*, to remain with the Lyon's Office, as a publick Register of the Kingdom. Therefore, conform to the power given to me by His Sacred Majesty, and according to the tenors of the said Acts of Parliament ; I testifie and make known, that the arms of old belonging to the Royal Burgh of *Aberdeen*, and now confirm'd by me, are marticulate in my said publick Register, upon the day and date of thir presents : And are thus blazoned, *viz.* The said Royal Burgh of *Aberdeen* Gives for Ensigns Armorial, Gules, three Towers triple towered, within a double Tressure Counterflowred Argent : Supported by two Leopards propper : The Motto, in an escrol above, *Bon-Accord* (the Word *Bon-Accord* was given them by King *Robert Bruce*, for killing all the *English* in one night in their Town, their word being that night *Bon-Accord*). And upon the Reverse of the Seal of the said Burgh is insculped, in a Field Azure, a Temple Argent, Saint Michael standing in the porch mitered and vested propper, with his Dexter hand lifted up to Heaven, praying over three children in a boyling Caldron of the first, and holding in the Sinister a Crosier, Or. Which Arms above-blazoned, I hereby declare to have been, and to be, the true and unrepealable Signs Armorial of

the Burgh Royal above-named. In testimony whereof, I have subscrib'd this Extract with my hand ; and have caus'd append my Seal of Office thereto.

Given at *Edinburgh*, the twenty fifth day of *February*, and of Our said Soveraign Lord's Reign, the twenty sixth Year, 1674.

CHARLES ARESKINE, *Lyon.*

2. PATENT of ARMS by THOMAS-ROBERT, Earl of Kinnoull, Lord-Lyon King of Arms, in favour of Sir JAMES CAMPBELL of Strathcathro, Knight.

To All and Sundry whom these presents do or may concern, We Thomas Robert, Earl of Kinnoull, etc., Lord Lyon King of Arms, send Greeting : Whereas Sir James Campbell of Stracathro, in the county of Forfar, Knight, hath by a Petition, of date the twenty-third day of August last ; Represented unto us, That the Petitioner was the second son of James Campbell by Helen his Wife, daughter of John Forrester, That the Petitioner was desirous of bearing and using such Arms as might be indicative of his Name and station in life, And prayed for Our licence and authority accordingly. Know ye therefore that We have devised and do by these presents Assign, Ratify, and Confirm unto the said Sir James Campbell, Knight, and his Descendants, to bear and use in all time coming, with due and proper differences, according to the Laws of Arms, the following Ensigns-Armorial, as depicted upon the margin hereof, and Matriculated of even date with these presents in Our Public Register of all Arms and Bearings in Scotland, viz. : Gyronny of eight *Or* and *Sable*, within a Bordure ingrailed *Azure* : On a Canton *Argent* a Galley with her sail furled up, flagged, and her oars in action of the second, and upon a Chief of the fourth, three Hunting horns also of the second, viroled of the first and stringed *Gules*, for maternal difference. Above the shield is placed a Helmet befitting his Degree with a Mantling *Gules*, doubled *Argent*, and upon a Wreath of his Liveries is set for Crest a Boar's head, erased, proper, and in an Escroll over the same this Motto "Ne obliviscaris." In testimony whereof these presents are subscribed by James Tytler of Woodhouselee, Esquire, our Depute, and the Seal of Our Office is appended hereunto, at Edinburgh, the second day of September, in the year of our Lord One thousand eight hundred and and fifty-nine.

No. VIII.

ACTS OF THE SCOTTISH PARLIAMENT AUTHORIZING CHANGE OF SURNAME.

1. 1527, May 10. (Jac. v.)

PROTESTATION anent the creatioun of ROBERT BERTOUN sone to Robert Bertoun of Ovirberntoun to be of the surname of MOWBRAYIS.

Jhone logane of lestalrig, gilbert Wauchop of nudry, and . . . . . askit documentis that our souerane lord, be the auise and auctoritie of parliament, creatit and Namyt Robert bertoun, sone to Robert bertoun of ovirberntoun, to be of the surname of mowbrayis, and will that he bruke the said surname in tyme to cum, and he to be callit mowbray commonly amangis all his liegis, efter the forme and tenor of the appunctuament maid betuix vmquhile . . . mowbray of bernbowgall and the said Robert bertoun eldar. becaus the samyn hes bene ane auld honorable hous and done our souerane lordis predecessoris gud seruice in ther weris and vtherwais. And the said robert bertoun zongar Is to mary . . . mowbray, the dochtir and air of the said . . . mowbray, and will not that the said hous pas fra the surname.

RATIFICATION of ane appoinctment betuix umquhile JON MOWBRAY of Bernbougall and ROBERT BERTOUN of Utherberntoun.

Our Souerane lord, with auise and consent of the thre estatis of parliament, vnderstanding that, be the appoinctment maid betwix vmquhile Jon mowbray of bernbougall and Robert bertoun of vtherberntoun for marage betuix Robert his sone and . . . moubray, dochtir and air to the said Jone, that the said Robert suld be callit mowbray and haue and beir that surnem. Herfor ordanis, Ratifiis, and apprevit the said.

2. 1581, c. 46. (Jac. VI.)

ANENT the changeing of the surename of WILLIAME MAXWELL apperand of lammingtoun In the surename of BAILLIE.

FORSAMEKILL as anent the supplicatioun gewin in be Johnne lord hereis, williame baillie of lammingtoun, and Eduard maxwell sone to the said lord, Makand mentioun That quhare for fulfilling of an pairt of the contract of mariage maid betuix the said lord and his said sone one that

ane pairt, and the said laird of lammingtoun and margaret baillie his lauchfull dochter one the vther pairt, for mariage contractit and schortlie thairefter solempnizat betuix the said Eduard and the said margaret : It being convenit that the saidis Edwarde sould ressaue the surename of baillie and armes of the hous of lammingtoun, In respect of the gude dedis and benefeitis he was to ressaue of the said mariage : Newirtheles wpoun considerationes mowing the said parteis, It is condiscendit and aggreit, with aduise of freindis one ather pairt, That it salbe dispensit with the said Edwardis ressawing of the said Surename of baillie for ane certane space to cum, Prowyding that williame maxwell, eldest lauchfull sone gottin betuix the said Eduarde and the said margaret, Sall instantlie ressaue the said surnename of baillie and armes of the said hous of lammingtoun, and ane act and statute to be maid in this present parliament thairwpoun. THAIRFORE, Oure said souerane lord, with aduise and consent of the thrie estatis of this present parliament, and of consent of the saidis Johnne lord hereis, williame baillie of lammingtoun, and the said Eduard maxwell, HES STATUTE AND ORDANIT that the said williame baillie, eldest lauchfull sone and apperand air gottin betuix the saidis Eduarde and margaret, hes willinglie past fra his surnename of maxwell, Ressauit and acceptit in place thairof the said surename of baillie, And armes of the said hous of lammingtoun. And thairfore decernis and Ordanis him now to be callit in all tymes cumming williame baillie, And all his posteritie thaireftir to be callit baillies of thair surename, And newir to revoke the samyn nor to ressaue ony vther surename heireftir : And Ordanes lettres of publicatioun to be direct heirvpon, gif neid beis, in forme as efferis.

3. ACT in favours of WILLIAM PYET his KINSMEN and RELATIONS.

Unto his Grace Her Majesty's high Commissioner, and Right Honourable the Estates of Parliament.

The Petition of William Pyet for himself, and in name and behalf of his other Kinsmen and Relations of the Nickname of Pyet,

Humbly sheweth,

That your Petitioners Predicessors were of the Sirname of Graham, and through the unhappy Difference that in the last Age did frequently fall out betwixt Clanns ; They, by their Neighbours, were forced from their Native Residence and obliged to cover themselves under the Sir-

name of Pyet. And We having by certain Tradition the True Account of Our Origine and Sirname of Graham : And We being Earnestly Desirous to be Restored, and make Use of the same in all Time Coming ; which We cannot do, having Trade both at Home and Abroad, without a Publick Act, whereby the Traders with Us may be Certiorat.

May it therefore please Your Grace and Lordships to allow Us to Assume and Use Our Ancient Sirname of Graham ; and to Discharge the Ignominious Nick-name of Pyet, in all time coming. And Your Petitioners shall ever pray.

Edinb. 7 *March* 1707.

Her Majesties high Commissioner and the Estates of Parliament haveing heard this petitione, They grant the desire thereof and alloues the petitioners to assume and use their antient surname of Graham, and discharges the nickname of Pyet in all tyme comeing.

Seafield Cancellar. *I.P.D.P.*

No. IX.

SPECIMENS OF ROYAL LICENCES FOR ASSUMPTION OR CHANGE OF SURNAME AND ARMS.

1. Ordinary Form of Announcement relative to Assumption of Additional Surname and Arms, involving Registration at the English College of Arms.

Whitehall, *January* 5, 1852.

The Queen has been pleased to grant unto William Heriot-Maitland-Dougall (heretofore William Heriot-Maitland), of Scotscraig, in the County of Fife, Esquire, a Commander in the Royal Navy, and to Elizabeth Kinnear, his Wife, eldest of the three daughters and co heirs of William Stark Dougall, late of Scotscraig aforesaid, Esquire, deceased, Her Royal licence and authority that they may, in compliance with an obligation contained in a certain deed of agreement, bearing date the 1st day of November 1851, continue to use the Surname of Dougall, in addition to and after that of Maitland, that he, the said William Heriot-Maitland-Dougall, may bear the arms of Dougall of Scotscraig, quarterly

with those of Maitland, and that such surname and arms may in like manner be taken, borne, and used by the issue of their marriage ; such arms being first duly exemplified according to the laws of arms, and recorded in the Herald's College, otherwise the said royal licence and permission to be void and of none effect :

And also to command that the said royal concession and declaration be registered in Her Majesty's College of Arms.

2. Assumption of Additional Surname and Arms, involving Registration at the Office of Ulster King of Arms, Dublin.

Office of Arms, Dublin Castle, *May* 27, 1858.

The Queen has been graciously pleased to grant to William Edward Armstrong . . . Her royal licence and authority, bearing date at St. James's, 18th May 1858, that (out of grateful and affectionate respect to the memory, and in compliance with the expressed desire of his maternal uncle, the late John MacDonnell, . . . to whose landed property he has succeeded) he and his issue may take and henceforth use the surname of MacDonnell, in addition to and after that of Armstrong, and also bear the arms of MacDonnell quarterly with those of Armstrong :

Provided that Her Majesty's royal concession and declaration be recorded in the Office of Ulster King of Arms in Ireland, which has been done accordingly.

J. Bernard Burke, *Ulster.*

3. Entire Change of Surname without any reference to Arms.

Whitehall, *August* 21, 1860.

The Queen has been pleased to grant unto Joseph Jeffrey, of Shellacres, in the parish of Norham, in the County of Northumberland, Gentleman, son of Joseph Jeffrey, late of Amble, in the parish of Warkworth, in the said county of Northumberland, Farmer, the younger brother of William Fenwick (formerly William Jeffrey), late of Sturton Grange, South Side, in the parish of Warkworth aforesaid, Esquire, both deceased, Her Royal licence and authority that he and his issue may, in compliance with a proviso contained in the last will and testament of his paternal uncle, the said William Fenwick, take and henceforth use the surname of Fenwick, in lieu and instead of that of Jeffrey :

And to command that the said Royal concession and declaration be recorded in Her Majesty's College of Arms, otherwise to be void and of none effect.

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